

# Analysis of victims' rights and services in Serbia and their alignment with EU Directive 2012/29/EU

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# EXECUTIVE SUMMARY

On 15 November 2012, EU Directive 2012/29/EU<sup>1</sup> (the EU Directive) was adopted by the European Union building on existing EU acquis to develop minimum standards for victims of crime. As part of its Accession process, Serbia is developing its victims' rights system in order to comply with the EU Directive and other relevant EU legislation to complete Chapter 23.

Serbia's commitment to the accession process presents a significant opportunity to develop a highly effective system of victims' rights and support. Given that Serbia is at a relatively early stage in its system development, structural changes and broad scale initiatives will be less disruptive and are possible at a much lower cost than in other countries. There is great potential for Serbia to provide leadership for countries in the Balkans and beyond in the area of victims' rights.

These changes present advantages not just for victims themselves but for the judicial process as a whole and for social and community stability. The establishment of a comprehensive, nationwide and long term system of victims' rights and support will not only benefit recent and future victims of crime, but will also offer significant benefits for victims of historic crimes, in particular during the conflict.

This report assesses Serbia's alignment with the EU Directive and proposes recommendations based on existing best practice and analysis of five Member States' systems (Croatia, England, Finland, France, and The Netherlands). Five aspects of the EU Directive (victim support, information, translation and interpretation, protection, and training) were considered in assessing Serbian law and practice and whether changes to the Serbian system are required to comply with the EU Directive. The results and recommendations are summarized below.

## VICTIM SUPPORT

**Existing services fall short of a national system of generic victim support as required by the EU Directive.** A range of support services exist in Serbia provided by government services such as the high prosecutor offices and high courts, as well as through NGOs. However, almost 90% of survey respondents felt that more than half of victims don't receive support.

State services are focused on assistance during criminal proceedings and largely on information provision, excluding access for victims who don't report the crime or whose case is dropped. In addition, most victim support in Serbia is focused on a limited group of victims such as victims of domestic violence, while victims of other crimes have far fewer support services available.

Limited service provision through the State and a lack of a formal referral system from State actors to victim support organizations also reduces access. Even where services are available, the organization of the system limits access (e.g. services are not sufficiently distributed across the country).

There is insufficient coordination between different agencies and NGOs and lack of funding is problematic for both NGOs and state services. State services in particular face difficulties where existing human resources must deliver new services (i.e. staff are given new tasks while retaining previous ones). NGOs lack long-term operational funding from State resources, putting greater

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<sup>1</sup> Directive 2012/29/eu of the European parliament and of the council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

pressure on them to obtain project-based funds through donors, a time consuming process that also threatens sustainability of services.

#### *Recommendations for the development of national generic victim support services:*

**A single entity should be established which would coordinate victim support services through a federated scheme.** Existing and new organizations offering support should be able to join if they meet certain minimum standards. The coordinating body would ensure consistency of services and adherence to quality standards established by the government. It could also dispense government funds. Through a structured coordination mechanism quality of victim support services could be monitored and improved. Moreover, this body would be in a strong position to operate a national victim support helpline and website offering information and support.

**New state funding for support services will be essential.** Income for such a fund could be generated through a range of means including offender surcharges, income from insurance schemes or gambling taxes, levies against prisoner income, or use of confiscated criminal assets. Funding should support the establishment of support offices as well as a national helpline, web-based services and mobile services.

**An inter-operable case management system should be explored for support services to record interactions with victims to facilitate support and exchange of data.** Coordination mechanisms should be established to assist state entities such as prosecutors and police to work more closely on victims' issues, as well as systems to support coordination between NGOs and the State. These could include a national council, coordination protocols and legislation. Similarly, a referral system should be established to ensure victims reporting to the police are referred to victim support offices. Development of a nationwide generic victim support system should build on existing resources and expertise in both state entities and NGOs.

#### **RIGHT TO INFORMATION**

**While some information on rights and the progress of criminal proceedings is provided, compared with the requirements of the EU Directive there are gaps in the provision of information.** Where information is provided, it may be unnecessarily delayed or inconsistent – with different actors providing different information or information being provided only sometimes. Risks are exacerbated by a lack of coordination mechanisms when providing information. Good examples of information provision have been observed, however these are largely reliant on the goodwill and commitment of individuals rather than on formal practices.

**The EU Directive requires that some information is provided without the need for the victim to request it.** This does not always occur and there are insufficient mechanisms to ensure this happens. Information should also be provided through different media – orally, written, online, etc. – but it appears to be provided largely orally or through a limited availability of leaflets.

The basic foundations for aligning with the EU Directive are in place, but legislative and practice gaps, unnecessary duplication of work, inequalities of service provision between authorities, between geographical locations or between victims groups all need to be addressed.

#### *Recommendations on provision of information*

**A number of amendments to the CPC are recommended** to clearly establish which authorities should provide what information. The police are likely in the best position to provide information early on while the prosecution may be better placed to provide information on the progress of proceedings. Other authorities such as courts and probation services should also have information provision responsibilities. In particular, a clear system should be established in line with the EU Directive to inform victims when a suspect or offender is due to be released from detention. Good practices such as the victims' liaison office in England should be considered.

**Further analysis is recommended to reveal where the communication and information sharing challenges lie both within state entities and between them and NGOs.**

New technologies should be considered to improve access to information, such as **online case tracking systems**, which allow better recording of victim information and exchange of data between authorities. Information can also be provided to the general public through a web-portal on victims' rights, a national helpline and awareness raising campaigns.

**Training, guidance and templates for delivering information in a simple and accessible format** would help meet the needs of all victims.

## TRANSLATION AND INTERPRETATION

**Though, on paper, victims appear to have strong rights to translation and interpretation—sometimes surpassing the EU Directive—there are certain issues in their legal and practical execution.** It is unclear who makes the decision to grant translation and interpretation, how need is assessed, and on the basis of which criteria the decision is made. The current right to appeal refers only to the court's judgment rather than the decision not to grant translation or interpretation. This does not conform with the EU Directive. Finally, only "other persons participating in proceedings" have rights to translation/interpretation under the Serbian CPC. This risks excluding injured parties/victims who aren't called as witnesses from receiving translation and interpretation.

### *Recommendations on translation and interpretation:*

**Legislative action can be taken to ensure all rights to translation and interpretation in the EU Directive feature in the CPC.** Ensuring that the right to interpretation and translation is available specifically for injured parties/victims reduces the risk of some victims not accessing these rights. Amendments should also be made to Article 11 of the CPC setting out who is responsible for determining the need for translation and interpretation, the criteria for this decision, and the procedure of deciding and organizing translation and interpretation. The Serbian government should also explore the possibilities of facilitating translation and interpretation for all victims, irrespective of whether they participate in criminal proceedings. This could be achieved in co-operation with NGOs.

## PROTECTION

While the Serbian CPC and other legislative instruments contain stipulations on protection measures, **some protection rights enumerated in the EU Directive—such as minimization of interviews and medical examinations, interviews without delay, and accompaniment by a person of choice—do not feature in either legislative instruments or practical guidelines in Serbia.** In practice some protection measures are taken, but they are aimed only at certain groups of victims.

The Serbian CPC provides guidance on identification and protection of vulnerable witnesses, but law and practice do not comply with requirements for an individual assessment of each victim in a consistent and effective manner, as is described in the EU Directive. Furthermore, special protection measures are insufficient or not used often enough to provide adequate protection to vulnerable witnesses.

A number of requirements for protection measures do not fully align with EU Directive obligations or are missing altogether (e.g. there is no legal requirements to ensure that vulnerable victims are interviewed in premises adapted for that purpose, that interviews are carried out by the same person or, in the case of sexual violence, by a person of the same sex).

Rules on avoidance of contact between victim and offenders are available only to especially vulnerable or juvenile witnesses rather than to all victims or vulnerable victims in certain cases. In addition, **the CPC provides for the confrontation of the defendant with witnesses where their statements do not match**. Requiring a victim to sit opposite the person who victimized them and to discuss what happened can be highly damaging. Also, contrary to the Directive (Art 19(2)), there are no legal regulations requiring that new court buildings have separate waiting areas for victims. Moreover, while the CPC and other primary legislation do establish a range of rights, obligations and rules, they are not sufficient to ensure that those rights operate effectively in practice.

#### *Recommendations on protection measures:*

**The CPC requires amendment to ensure that the protection measures are available** to all victims or vulnerable victims in accordance with the EU Directive.

Amendments to minimize delay in interviews should be accompanied by specific implementing measures setting out procedures including coordination of interviews, video or audio recording, and ensuring their admissibility as evidence. A review of police, prosecution and court premises and procedures should examine to what extent a victim risks coming into contact with a defendant. While structural changes may be needed in the long term, practical measures might increase protection in the short term. **Further research should also be carried out with respect to the evidential admissibility of statements made by victims to the police**. It appears there are strong arguments for allowing statements to be used as evidence, subject to appropriate safeguards.

**Rules relating to avoidance of contact with the defendant should be reviewed**. In particular, this should determine the circumstances in which avoidance should occur, rules relating to when contact is strictly necessary (no alternatives exist), and safeguards for victims where contact must take place.

**Procedures for individual assessment of victims' vulnerability should be developed alongside appropriate amendments to the CPC**. Legally binding obligations on protection measures should be imposed on authorities in line with the EU Directive whether through the CPC or alternative means. With respect to protection measures in Court (Article 23(3) of the EU Directive), the CPC's provisions focus only on vulnerable or protected witnesses—the CPC should be adapted to ensure the measures are equally available to vulnerable victims in light of the individual assessment.

## TRAINING



Judicial officials and law enforcement agents are offered some level of training to improve their work with victims of crime, particularly certain groups such as juveniles or domestic violence victims. However, few practitioners report receiving training or capacity building on how to treat *all* victims of crime. There also seems to be inadequate investment in ongoing training. Practitioners' lack of training on victims' issues can cause secondary victimization which can have a strong impact on victims' rehabilitation and their trust in the justice system.

*Recommendations on training:*

While the CPC could be amended to establish some basic level of training obligations, this is not obligatory and could be addressed via guidelines, practice directions, secondary legislation and government initiatives. **The basic curricula of police, judges, prosecutors, lawyers and other practitioners should have an increased focus on victims' issues.** Ongoing training for practitioners should envision a sustainable, continuous development of skills and knowledge on victims' issues. This must be developed in a way that includes follow up and on-the-job practice and supervision to ensure sustainable capacity building. Training programs where practitioners with different backgrounds and specializations share and learn on victims' issues are strongly recommended. A comprehensive training needs assessment is recommended to identify the needs of different practitioner groups for training on victims' issues.

## 1 INTRODUCTION

1. According to its Accession Action plan for Chapter 23, Serbia intends to strengthen procedural safeguards in line with EU standards set out in *Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (the EU Directive)*. This Analysis assesses how Serbia aligns in practice with the EU Directive. It was requested by the Serbian Government to inform development a national system of victim support services which complies with the EU Directive.<sup>2</sup> The Analysis presents a baseline of current victim support systems in the country by mapping and assessing which institutions are providing victim support services and their levels of quality and access, as well as by documenting existing guidelines and provision of support in police and prosecution offices and courts and by other services and NGOs in Serbia. It includes a comparative analysis of victim support systems in five EU member states vis-à-vis the Serbian system and proposes three options for Serbia's proposed national system.<sup>3</sup>

2. Since the 1985 UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power, the European continent has set the scene for the continuous development of a legal framework for the protection of victims of crime, through the adoption of policy decisions and legal instruments. Milestones include the EU Council Framework Decision on the Standing of Victims in Criminal Proceedings (2001) and the EU Directive on Compensation to Crime Victims (2004).

3. The European Commission estimates up to 75 million people are likely to be direct victims of serious crime every year in Europe. According to Eurostat data around 30 million crimes against persons or property are recorded annually, and many crimes are never reported. Crime often not only affects the direct victim, but also indirect victims close to them, e.g. family members.<sup>4</sup>

4. These numbers underline the need for action to strengthen the rights of victims of crime and to ensure that their need for protection, support and access to justice is met (in a uniform way across Europe). Several Member States already had some legal and practical provisions for victims of crime. Also, several provisions were already available resulting from EU and International obligations such as the UN Basic Principles, Council of Europe Recommendations, Council of Europe Istanbul Convention, European Convention on Human Rights. However, the role and needs of victims in criminal proceedings were still generally not sufficiently addressed and the level of victims' rights continued to differ significantly across the EU.

5. The Framework Decision (2001/220/JHA), legitimized by invoking the EU objective of freedom of movement, envisioned that every EU citizen falling victim to a crime would have the same level of protection no matter what EU Member State they found themselves in. However, the Framework Decision was not fully realized in some Member States. Most failed to transpose the Framework Decision into domestic law,<sup>5</sup> and the cross-border dimension of EU legislation limited the

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<sup>2</sup> This activity was funded by the Multi-donor Trust Fund for Justice Sector Support in Serbia (MDTF-JSS), a sectoral program administered by the World Bank to support the strengthening of the justice sector to facilitate its integration into the European Union. For more information about the MDTF-JSS and its ongoing work, see <http://www.mdtfjss.org.rs/en/>.

<sup>3</sup> In addition, the MDTF-JSS will prepare an assessment of legislative alignment with EU Acquis in the area of victim support and a fiscal impact assessment of proposed options for a comprehensive victim support system in Serbia.

<sup>4</sup> See Working paper impact assessment, Commission staff.

<sup>5</sup> Groenhuijsen, Pemberton, *Developing Victim's Rights within European Union: Past, Present and Future*, Wolf Legal Publishers, Nijmegen, 2011.

thematic scope of the competencies of the EU such that they were used only in cross-border criminal proceedings.<sup>6</sup>

**6. The EU determined a certain minimum level of safeguards and standards applied in all Member States would facilitate judicial cooperation, increase the quality of justice and also improve people's confidence in the very notion of 'justice'.** To ensure victims of crime were given non-discriminatory minimum rights across the EU, irrespective of their nationality or country of residence, the EU Commission drafted *the EU Directive establishing minimum standards on the rights, support and protection of victims of crime* (EU/2012/29). The deadline for transposition of the EU Directive was set for the 16th of November of 2015.

**7. The core objective of the Directive is to deal with victims' needs in a comprehensive way.** Therefore, the Directive covers the five broad needs of victims, namely: the need to be recognized and treated with respect and dignity; to be protected and supported; to have access to justice; and to get compensation and restoration. Among others the new rights included in the EU Directive are better referrals of police to victim support services; rights for victim's family members; right to review a decision not to prosecute; individual assessment. Formal legislation has been complemented by policy recommendations and guides for implementation of this Directive.

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<sup>6</sup> Letschert and Groenhuijsen (2011)

## 2 METHODOLOGY

8. **Five issues in the EU Directive 2012/29/EU were selected for extensive research in Serbia namely Information, Translation and Interpretation, Protection, Training and Victim Support** (covering Articles 3, 4, 6, 7, 8, 9, 18, 20, 22 and 23 of the Directive, see Annex I). These were selected based on the following objectives: articles likely to have the greatest impact on victims of crime; articles imposing the clearest obligations on Member States; articles most likely to require significant changes in national systems; and articles mostly likely to benefit from analysis and recommendations.<sup>7</sup>

9. **Analysis of the current legislation on victims of crime in Serbia was carried out based on** interviews, a workshop with stakeholders, and a survey on current legal provisions and realities to support victims of crime in Serbia. The Analysis aims to identify problems and drivers of problems experienced by victims and victim support organizations (VSO) when seeking or providing assistance to victims of crime in Serbia. It also assesses compliance with the EU Directive.

10. **Research into victims' rights and services in Serbia was done through a triangulation of methods.** These included desk research, exploratory in-depth interviews, an online survey for VSOs and international agencies, as well as semi-structured interviews with different stakeholders namely police, prosecutors, judges and victim support practitioners. Triangulation was adopted in order to combine qualitative and quantitative data in one analysis. Consultation with stakeholders helped obtain information on practical implementation of rights as well as strengthening the validity of the findings.

11. **A multi-country comparative analysis was carried out providing an overview and comparison of victim support systems.** Countries were chosen based on their different models of victim support, different justice systems and to ensure some level of geographical spread. Findings have been used to inform recommendations and identify potential good practices which can be transferred to the Serbian situation.

12. **Further details of the analysis methodology are provided at Annex II.**

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<sup>7</sup> The following articles are not fully or not at all covered in this study: Definition (article 2), Right of victims when making a complaint (Article 5), Right to be heard (Article 10), Rights in the event of a decision not to prosecute (Article 11), Right to safeguards in the context of restorative justice services (Article 12), Right to legal aid (Article 13), Right to reimbursement of expenses (Article 14), Right to the return of property (Article 15), Right to decision on compensation from the offender in the course of criminal proceedings (Article 16), Rights of victims resident in another Member State (Article 17), Right to protection of privacy (Article 21), Right to protection of child victims during criminal proceedings (Article 24).

### 3 VICTIM SUPPORT

#### 3.1 Victim support under the EU Directive

##### KEY ASPECTS OF VICTIM SUPPORT ACCORDING TO DIRECTIVE 2012/29/EU (Focus on Articles 8 and 9)

**Access:** Victims should have access to victim support services *at all times* (before, during and after criminal proceedings). Support should *not be dependent on a formal criminal complaint* (Article 8) and should be provided in a *free and confidential* manner. *Family members should also receive support* 'in accordance with their needs and the degree of harm suffered...'.<sup>8</sup>

**Referral:** Member States should facilitate referral of victims from the competent authority to victim support services. Ideally the victim's information is passed to a VSO (subject to data protection rules) which then contacts the victim and provides information and support. This proactive referral alleviates the burden of victims asking for support themselves and greatly increases victim support take up.

**Diverse forms of support:** Victims of crime should be provided with information and advice on relevant rights, services, and prevention measures as well as emotional and, where available, psychological support. Specialist support services should be developed and provided unless already in existence including shelters and other appropriate interim accommodation.

**Organization of support services:** Victim support services may be set up as public or non-governmental organizations. Member States should encourage and work closely with civil society organizations in delivering services (Recital 62). Victim support may be organized on a professional or voluntary basis. Studies show that there is a need to strike a balance between the number of volunteers and professional staff working in victim support. Higher volunteerism tends to be related to a higher provision of generic victim support services<sup>8</sup>. Specialized services should be organized in addition to or as an integrated part of the general victim support services.

#### 3.2 Victim support under Serbian law

**13. The Serbian Criminal Procedural Code<sup>9</sup> (CPC) does not systematically regulate victim support.** Victims do not have the right to receive support under law. There are no obligations on specific authorities to provide support or for funding to be made available for support services.

#### 3.3 Victim support in practice

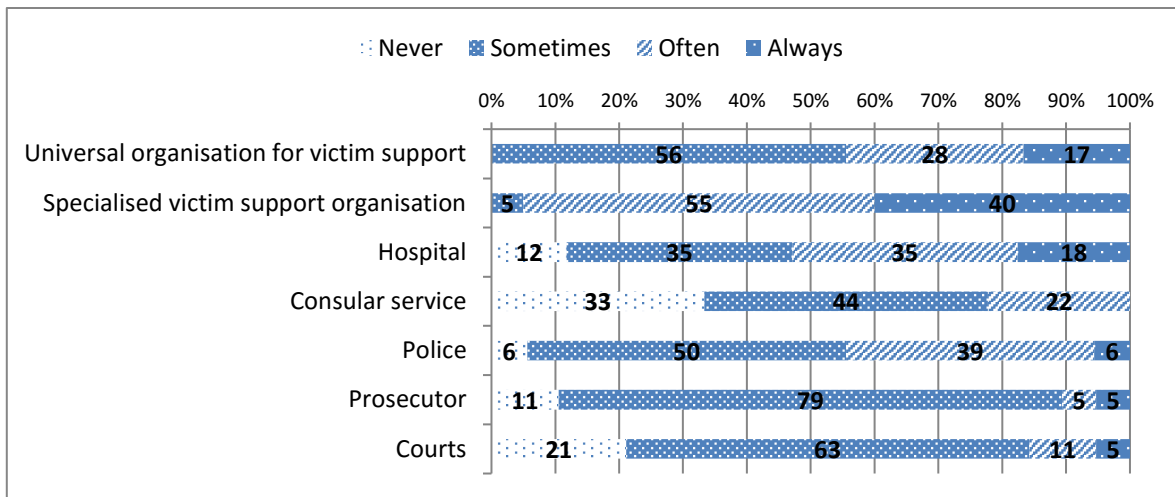
**14. Serbia does not have a general, national system for support for victims and witnesses of crime.** While a range of support services exists, provided by NGOs, international agencies, police, prosecutors and courts, a general national system does not exist. The primary means of providing emotional, practical and informational support is through NGOs and the Centres for Social work. Four higher Prosecutor's offices and the 25 higher courts provide primarily information services.

**15. Volunteers are important asset in providing support to victims.** The vast majority of survey respondents work with volunteers as well as professional staff. Over half of VSOs rely more on volunteers than professional staff though State funding enables greater employment of professionals.

<sup>8</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency. (Available at: [http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_en_0.pdf))

<sup>9</sup> See Official Journal of Republic of Serbia No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

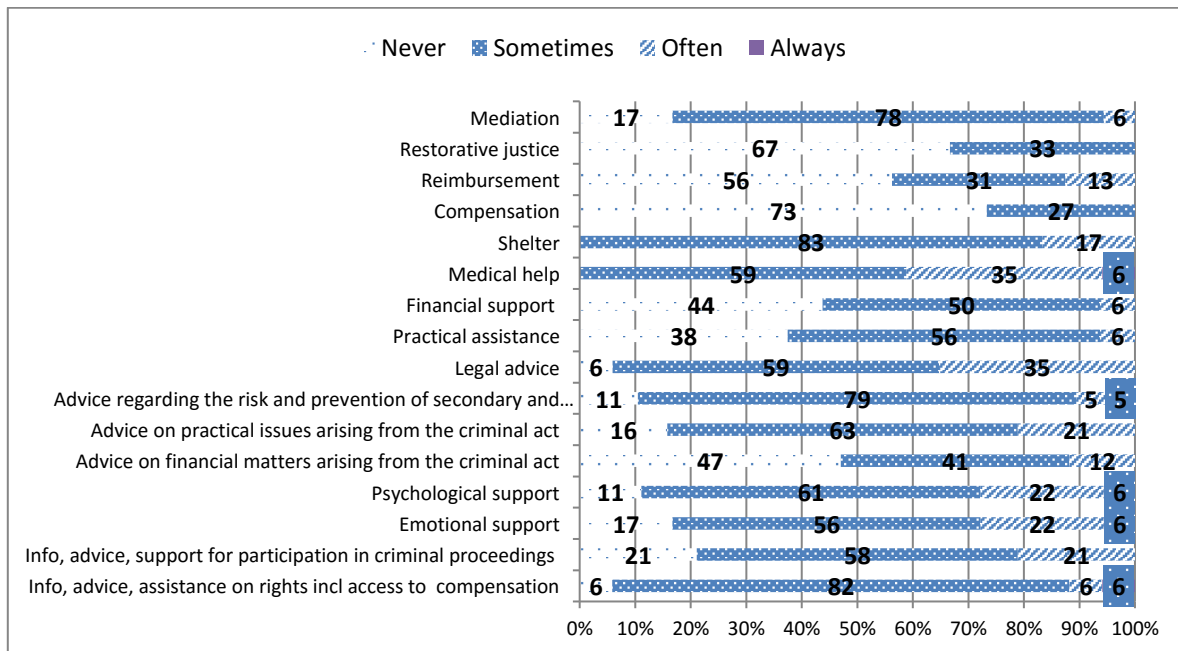
Figure 1. Support Providers



**Problem 1: Many victims of crime don't reach victim support services**

16. The majority of VSOs (89%) report that more than half of Serbian victims of crime don't receive any victim support whilst nearly 40% of organizations indicate that less than five percent of Serbian victims receive victim support. Only around 15,000 victims are supported every year in Serbia<sup>10</sup> by victim support organizations, while there are an estimated 200,000 to 1 million victims<sup>11</sup> of reported and unreported serious crime in Serbia every year.

Figure 2. Support provided to victims in general



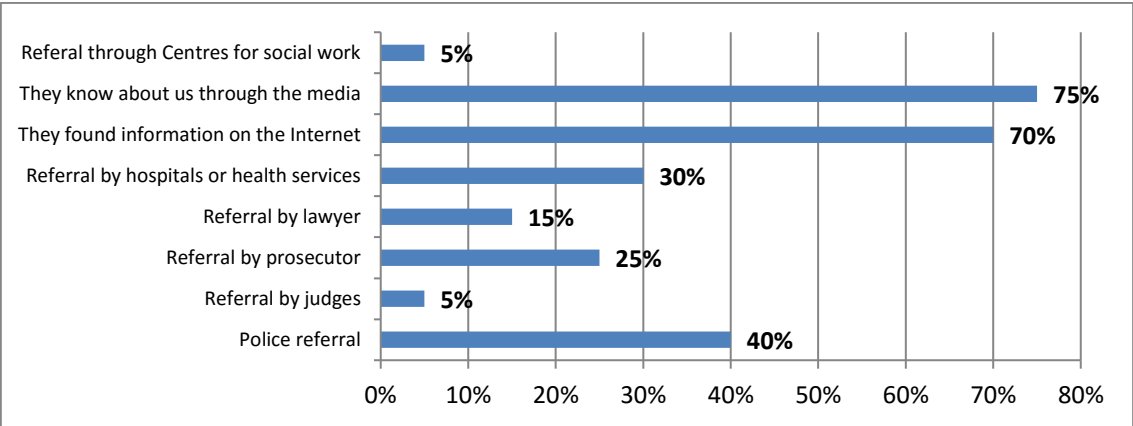
<sup>10</sup> Based on the fact that survey respondents represent about 20% of all victim support services in Serbia and that they support less than 3,000 victims per year, it can be estimated that around 15,000 victims are supported per year

<sup>11</sup> The estimate of 200 000 victims is based on views that less than half of victims report crimes, whilst the 1 million figure is based on the estimate that 15% of the EU population suffers victimization every year – based on EU Commission Impact Assessment SEC(2011): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011SC0580&from=EN>

**17. Results also show that many victims either never access or only sometimes access different types of services.** For example, around 73% never access compensation, around 67% never access restorative justice schemes, and 38% never access practical support.

**18. Victims who do reach victim support services do so through different channels, with the internet and media proving important sources of information.** This demonstrates the importance of information portals and awareness raising campaigns. Support organizations also report victims reach them by *‘being referred by family or friends’*, *‘through the SOS helpline’*, *‘referral by other organizations and schools’*, and *‘after receiving a flyer’*.

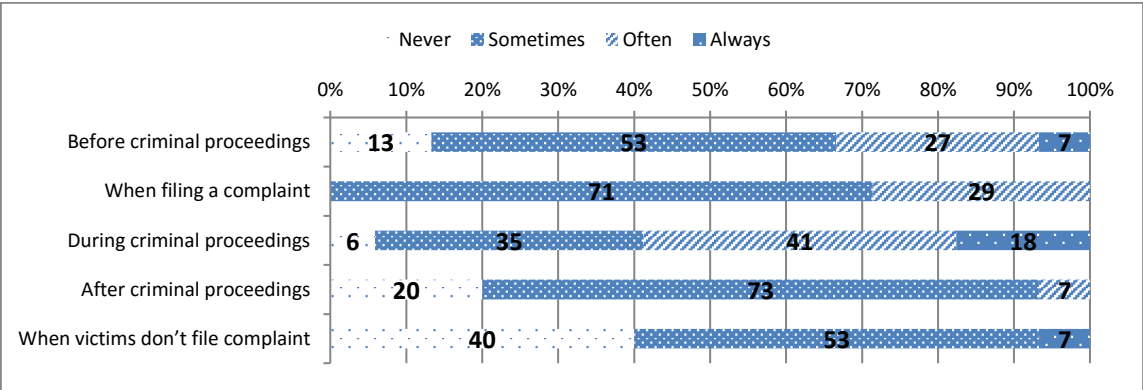
**Figure 3. Channels to reach victim support**



**Problem 2: Support is primarily available within criminal proceedings, excluding access to victims outside of the justice system**

**19. Support is mostly provided during investigative phases and the trial, limiting access for victims.** Victim support at the time of filing a complaint, after criminal proceedings or in case victims don't file a complaint is only provided in some cases. Support provided by state institutions such as the prosecutor's offices and courts is mainly focused on information provision. The strong focus on supporting victims during criminal proceedings to the exclusion of support outside proceedings risks depriving victims when there are no criminal proceedings. This problem is exacerbated by the fact that many victims never report the crime they suffer: 62.5% of VSOs surveyed report less than half of victims report crime in Serbia.

**Figure 4. When Victim Support is Provided**



### Problem 3: Most victim support is focused on particular groups of victims

**20. Most VSOs limit support to specific types of crime.** Certain groups of victims, such as victims of domestic violence, have much greater access to support than others (e.g. victims of burglary or male victims). Around half of victim support services focus on support for women and/or children with just over half of VSOs supporting all victims of crime (women, men and children).

**21. Only one VSO has been identified in Serbia, Victimology Society of Serbia (VDS), which serves all victims of crime.** VDS has advocated for the rights of all victims of crime since 1997 and began offering support services in 2003.

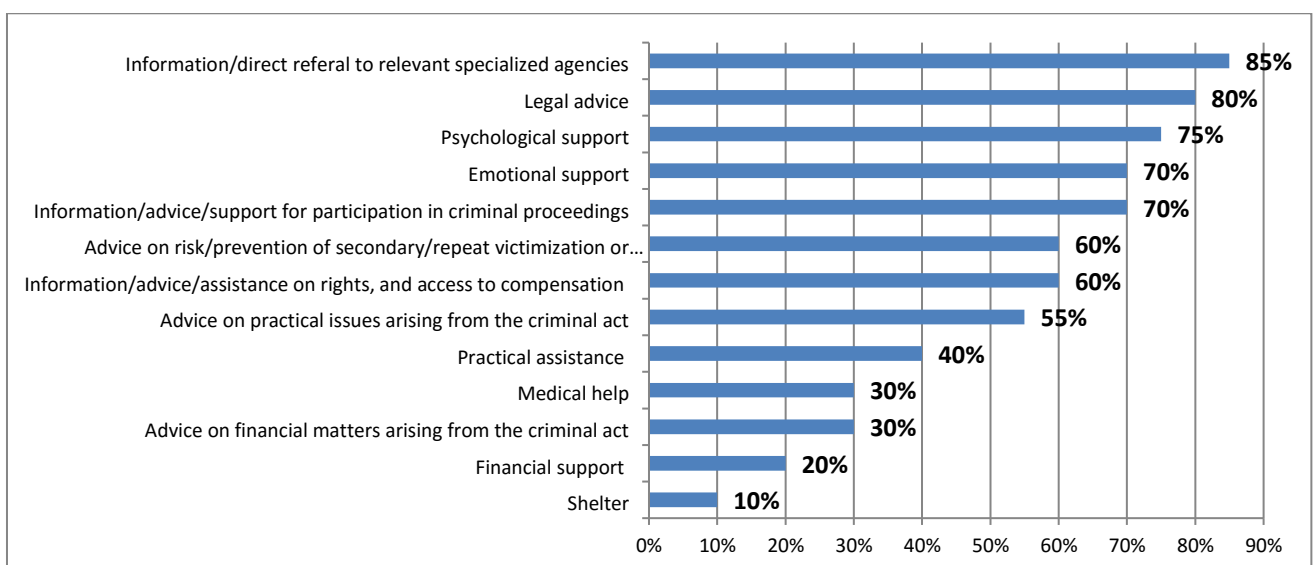
Table 1. Crimes victims are supported for

Type of Crime	Victim Support Organization (n, %)	Type of Crime	Victim Support Organization (n, %)
Burglary	2 (10%)	Identity theft and fraud	3 (15%)
Child Abuse	10 (50%)	Kidnapping or abduction	5 (25%)
Cybercrime	5 (25%)	Murder	3 (15%)
Domestic Violence	14 (70%)	Racist crime/Discrimination	5 (25%)
Elder abuse	6 (30%)	Robbery and Theft	2 (10%)
Female Genital Mutilation	2 (10%)	Sexual Violence	10 (50%)
Hate Crime	4 (20%)	Stalking	5 (25%)
Honor crimes	1 (5%)	Terrorism and Disasters	2 (10%)
Human Trafficking	14 (70%)	Violent Crime	8 (40%)

### Problem 4: Some forms of support are limited

**22. Some forms of support are widely provided but gaps or limitations exist.** Legal advice, provision of certain information, and emotional and psychological support are provided by over 70% of organizations surveyed. However, practical assistance is not as widely provided. Worryingly only 60% of organizations provide information to victims on their rights.

Figure 5. Support provided by victim support organizations in the VSS Survey





#### Problem 5: There are risks that victim support is not sufficiently distributed throughout Serbia

**23. The EU Directive calls for sufficient geographic distribution of support; it remains unclear whether support is equally available to victims in all parts of Serbia.** The majority of victim support services are based in Belgrade, reflecting that most crime takes place in the capital. However, this does not necessarily take into account hidden crime and whether support is proportionately and sufficiently available.

**24. A promising practice to increase coverage is the use of mobile teams to support victims.** In 2001, UNICEF in partnership with four NGOs began a pilot project entitled 'Outreach Mobile Teams for Child Protection<sup>12</sup>'. The project helped identify and support victims of child abuse in remote areas in Serbia through the use of mobile teams. Similar approaches have been adopted in other countries including Portugal and could offer one solution to expanding service coverage.

#### Problem 6: Referral to victim support services is ad hoc and dependent on the type of victimization

**25. Referral of victims to support services is too dependent on individuals and largely focused on limited groups.** Referral, particularly from the police to victim support can be an effective mechanism to increase access to services. However, in Serbia this mainly relies on the goodwill and knowledge of individuals in law enforcement services or judicial institutions rather than having explicit and compulsory referral procedures. In addition, referrals tend to focus on domestic violence and child abuse victims. Most domestic violence, human trafficking and child abuse cases are transferred automatically to the government funded Centres for Social Work or other specialized services like Centre for the Protection of victims of Human Trafficking or the Child victim protection units. Whilst this is a very positive system, referrals should not be limited to just few groups of victims but rather be available on the basis of each victim's needs.

#### Problem 7: Provision of support may be delayed unnecessarily

**26. Interviews suggest that long delays between phases in the criminal proceedings might delay support provision.** The time between the first interview with the police and the victim's meeting with the prosecutor can take months to a year. Given that the prosecution and courts have a large responsibility for providing support, these delays will inevitably delay the provision of support.

#### Problem 8: The lack of coordination in the provision of victim support risks harming victims

**27. Collaboration between state institutions and civil society appears limited and inconsistent.** This increases risks of gaps and duplication in services, as well as places additional burdens on victims. Lack of formal systems can inhibit information sharing, coordinated responses in individual cases and consistent approaches on a national basis. Only a few formal collaborations have been established between, for instance, state funded victim and witness services and victim support services like VDS or ASTRA.

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<sup>12</sup> See Mobile teams: Reaching out to child victims of violence and abuse, UNICEF Serbia (Available at: [http://www.unicef.org/serbia/reallives\\_885.html](http://www.unicef.org/serbia/reallives_885.html))

**28. Lack of coordination and provision of support through different practitioners and officials is harmful to victims.** Particularly where victims have to change support providers, struggle to identify which organization can support them, have to tell their stories repeatedly, or are supported in different ways through different professionals. Information may also be provided in an inconsistent and contradictory way which can confuse and further harm victims. Victims require a strong relationship with the support provider which builds on consistency, time and trust.

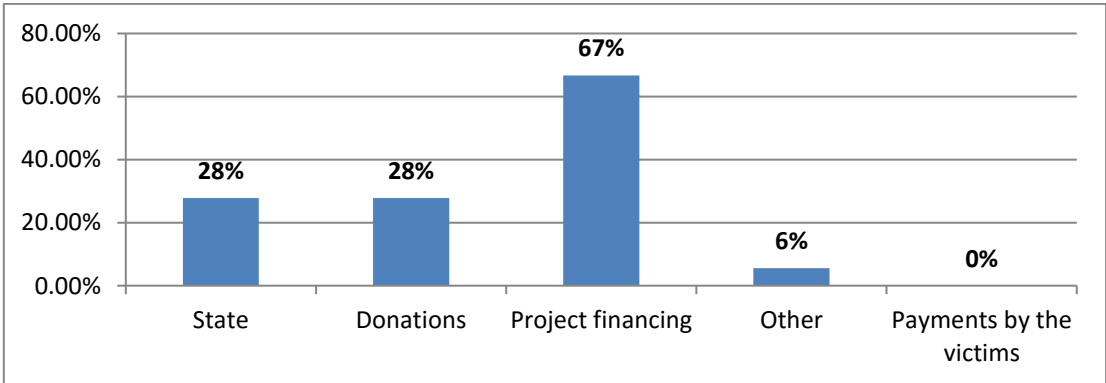
**29. Stakeholders recognize that coordination of existing services is crucial to improve victim support in Serbia.** The Action Plan for Chapter 23, activity 3.7.1.20 in particular, aims to establish a countrywide network of support services for victims, witnesses and injured in all phases of criminal proceedings. Victim support providers also stress the importance of strengthening the network of victim support services and investing in communication and coordination between institutions and civil society.

**Problem 9: Resources are insufficient to provide consistent and high quality victim support**

**30. Governmental support services face a considerable lack of human, technical, and practical resources and over-rely on existing human resources.** Interviewees working with victims of crime in prosecutor’s offices and courts expressed their motivation to provide the best services possible to victims. However, the lack of technical resources, low wages, high workload and lack of training create a highly challenging environment for delivery of services. For example, the lack of office space for the support services in the high prosecution offices inhibits provision of confidential support to victims. Moreover, increases in workload in the victims’ and witness’ services in the Prosecutor’s office have not been accompanied by new recruitment, thus existing staff have very limited time to work with victims. This also risks staff becoming demotivated at the very least and suffering vicarious trauma at worst.

**31. Non-profit VSOs have difficulties finding funding for the services they provide.** This is particularly difficult for service providers not focusing on ‘preferred’ victim groups (e.g. children and domestic violence victims). The State must recognize and strengthen cooperation with civil society organizations that have provided support for years by allocating budget funds for victims. Overall, there are not enough organizations and insufficient human resources to provide support to all victims.

Figure 6. Source of funding victim support



**32. Victim support organizations are mainly reliant on project financing (67% of respondents).** The government (28%) and donations (28%) are also important sources of funding for victims support organizations. Many NGOs combined project financing with donations to provide services for victims. None of the VSOs received funding through payment for services by victims.

**33. Project financing can have a big impact on support but it also risks a lack of continuity of services.** Different pilot projects that were financed and carried out to improve victim support in Serbia have had a considerable impact. However, projects are often limited in time and scope and therefore improve victim support services in a limited way, raising questions of sustainability of impact. Project applications also divert resources from providing support and running organizations.

**Problem 10: The experiences of victims are not sufficiently taken into account when developing policies**

**34. More research is needed on the experiences of victims of crime in Serbia.** There is a lack of understanding of how victims themselves experience support provision in Serbia which could be resolved through greater consultation of victims. Both research findings of victims' views and direct consultations with victims during policy development are effective means of ensuring that policies and laws aimed at victims meet their objectives.

**Problem 11: Quality standards for victim support are not transparent**

**35. There is no national system of quality assurance and it is unclear whether victim support organizations are evaluated against quality standards.** Some VSOs have evaluation mechanisms in place to support the quality of their work. Others indicated they rely on the CPC when providing informational support.

## 4 INFORMATION

### 4.1 Information rights under the Directive

**36. There is a clear and strong focus on information rights in the EU Directive** reflecting the fact that information is the gateway to all other rights. The Directive establishes requirements on what information must be provided and a basic framework on how it should be provided.

**37. As a minimum Member States must ensure information is provided to victims proactively when authorities first become aware of the victim (Article 4).** This information generally relates to the victim's rights and available services. In addition, victims must receive a written acknowledgement when making a complaint, in their own language where appropriate **(Article 5)**.

**38. Information must also be provided during the course of proceedings and to a limited extent afterwards. (Article 6).** This Article sets out what information must be provided to the victim about the ongoing criminal proceedings. This includes for example information about the date and location of the trial, the nature of the charges against the suspect, and if the suspect has been released from detention.

**39. The EU Directive provides for interpretation and for translation of essential documents for victims who have a role in criminal proceedings.** This approach gives broad leeway to Member States in their approach. In Serbia this means that victims, who have rights and are participating in proceedings as injured parties or as a subsidiary prosecutor, should be considered as having a role in criminal proceedings and have a right to interpretation and translation.

**40. A number of other articles contain requirements on information provision.** These are Article 9 (information provided by victim support services), Article 11 on notification of the right to review a decision to not prosecute, Article 12 on restorative justice processes, and Article 26 on awareness raising campaigns.

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#### FOUR LEVELS OF INFORMATION PROVISION FOR VICTIMS

- 1) Awareness raising of rights amongst general population
  - 2) Provision of information on rights and services to victims
  - 3) Provision of information on the criminal proceedings
  - 4) Information on impact of crime, reactions to crime and crime prevention
- 

#### KEY ASPECTS OF INFORMATION PROVISION

**Information should be provided in a timely manner.** Some information should be provided very soon after a victim reports a crime or authorities become aware of the victim. Information can be provided on an ongoing basis, on a repeat basis, and even by different organizations (provided there is effective co-ordination and no confusion or contradiction in information), and should be provided at appropriate moments when victims are able to use the information or take it in.

**Information should be simple, understandable and accessible.** *Information should be provided using simple language* which is easy to follow for the average person and for those with comprehension difficulties. Complex grammatical structures, long or difficult words, technical terminology, etc. should be avoided or should include explanations. *Information must also be*

*understandable from the perspective of foreign speakers.* **Article 3** of the Directive infers a broader (though less precise) requirement for information on rights to be provided in a range of languages. *Information should be provided through a range of media* (e.g. leaflets, brochures, directly by practitioners, through websites, publicity campaigns, etc.) to ensure maximum accessibility of information. People take in information differently: some are able to read long texts, others are more visual and prefer video, whilst others prefer audio or face to face interactions. Some victims also have disabilities or lower literacy levels which can impede access to information.

**Information should be targeted.** Different victims or victim groups may require different or more specific information for their particular circumstances (e.g. victims of sexual violence or domestic violence or children). The principles of recognition and respect, as established under Article 1 of the EU Directive, entail the provision of information in a tailored manner.

**The proactive provision of information should be balanced with the needs of the victim.** The EU Directive differentiates between information which is provided proactively (i.e. without the victim having to request it) and information which is provided on the request of the victim. This strives to achieve a balance between making victims aware of their rights yet not overburdening them or the authorities. In achieving this balance, the EU Directive has repeatedly highlighted the need to inform victims of their right to receive information. Victims must understand what information is available and the implications of asking not to receive it. Moreover, victims should be provided the opportunity to change their minds – particularly where they may, over time, be in a better position to receive the information.

## 4.2 Information provision to the general public in Serbia

**Problem 12: There is insufficient knowledge amongst the general public about victims' rights and victimization issues.**

**41. Gaps in knowledge and information are inhibiting access to services which can result in underreporting.** There appears to be a lack of dissemination of information on victimization to the general public in Serbia whilst many victims are unaware of how or where to report a crime. Information, when it is received by victims, often comes too late, thus it is critical to inform the general public about victims' rights.

## 4.3 Information provision under Serbian law

**Problem 13: There is insufficient legal implementation of information rights following first contact with authorities.**

**42. The CPC is the primary legislative instrument by which information rights established in the EU Directive are implemented, but a range of information is not covered by the CPC.**<sup>13</sup> The CPC does

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<sup>13</sup> See Väättäinen, S (2015), p. 26: *'The right to receive information from the first contact with a competent authority and subsequent detail of the types of information is not covered by the CPC.'*

not require information provision as established under Articles 3 (simple and accessible language), 4 (information on rights and services on first contact) and 5 (acknowledgement of complaint).<sup>14</sup>

**43. The CPC does not cover mechanisms and approaches for delivering information as required by the EU Directive.** These aspects of the EU Directive must be implemented at least through secondary legislation, practice directions or other binding protocols. Moreover, interviews indicated that, for judges and prosecutors, the CPC is the primary source for determining their obligations, highlighting the importance of including relatively detailed obligations in the CPC.

**44. The CPC establishes some information rights for victims only in their role as witnesses.** While this covers most victims in criminal proceedings, it risks that victims who are not called as witnesses or are no longer recognized as such will not be provided with information (or other) rights. This approach does not align with the EU Directive.

#### **4.4 Information provision in practice: first contact with authorities and during proceedings**

**45. In practice a wide range of information is provided to victims by various authorities.** Different state and non-state actors have partly taken up the role of providing information to victims of crime. There has been strong progress in Serbia on how victims are informed of their rights and of progress in the case in particular through pilot victim services in select courts and high public prosecution offices.

**Problem 14: Some information which should be provided without undue delay is provided later in proceedings.**

**46. A range of problems have been identified in the practical provision of information.** Not all the information that is required to be provided on first contact (e.g. with the police) is actually provided. However, interviews also indicated very positive approaches through the establishment of police protocols for domestic violence situations which could be used as good practice for delivery of information to victims in general.

**47. Nevertheless, results from the survey indicate several shortcomings in providing information to victims in practice.** Figure 7 below shows the gaps in information provision in practice compared with what should be provided under the CPC and the EU Directive. The graph shows most information is on the whole only provided 'sometimes'.

**48. Some information vital to victims is not always provided.**<sup>15</sup> The following information is never provided in practice according to respondents: written confirmation of the report (56%); information

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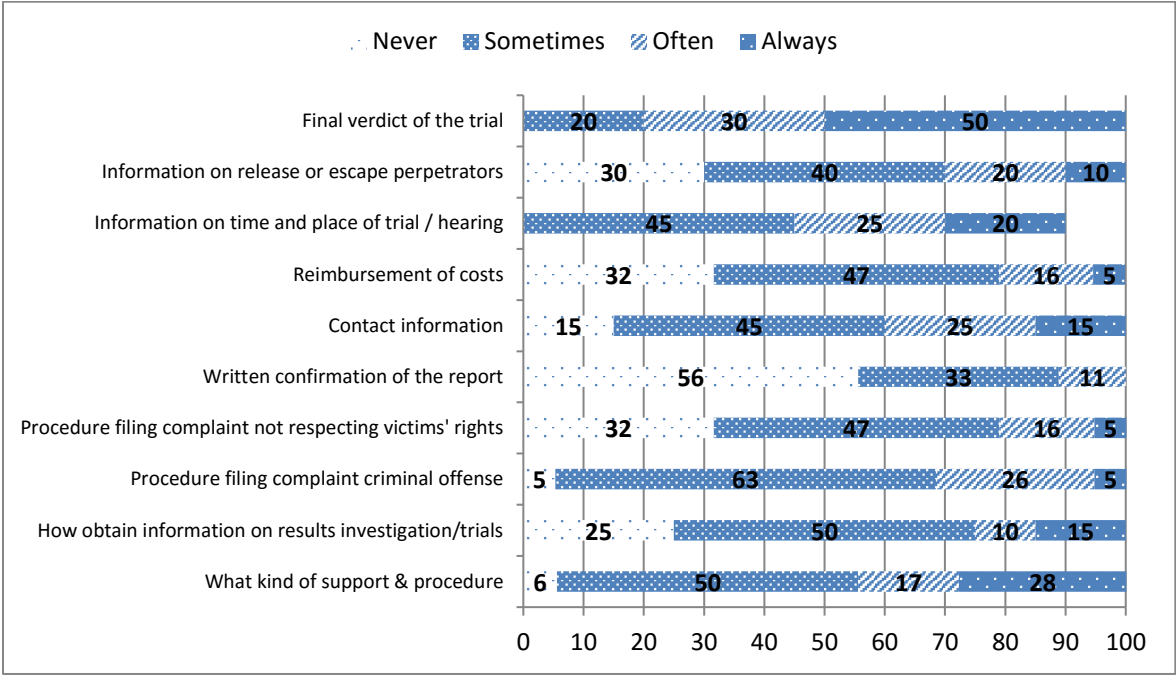
<sup>14</sup> A number of information rights under Article 6 are provided for under article 50 of the CPC (e.g. article 50 (4) on the examination of the files and objects serving as evidence and 50 (11) on the notification about the outcome of the proceedings and be served the final judgment).

<sup>15</sup> The challenge of victims having access to information on their case is further endorsed by the Judicial Functional review by the World Bank (2014, p. 195) which found this is in particular a challenge for the elderly (over 60 years old) and the least educated citizens. These citizens expressed that difficulties in finding the necessary information influenced their decision to initiate a judicial procedure or not.

on how to obtain information on the results of the investigation and trial (25%); information on the release or escape of the perpetrator (30%); and contact information of relevant contact persons (15%).

**49. Including obligations on information provision in the CPC has had a positive impact.** The graph shows that in 50% of cases the final verdict is ‘always’ provided to the victim and in 30% this is done ‘often’. This reflects the inclusion of these points in the CPC. Overall, information provision on the time and place of the trial or hearing, which is also required under the CPC, seems to be provided in many cases.

**Figure 7. Information provided to victims**



**Problem 15: Information is not provided on first contact with a victim or during proceedings.**

**50. Interviews have indicated that information which should be provided on first contact is not necessarily provided at this point, but may be given later in the process.** In particular, a decision not to proceed or to end an investigation of a case is not considered to be information and therefore not shared with the victim. Whether a victim is able to obtain such information is dependent on their own efforts, the efforts of an involved NGO and the willingness and commitment of involved judges and prosecutors.

**51. Information on the release of the suspect in custody or offender in prison is ‘never’ or only ‘sometimes’ shared with the victim according to 70% of respondents.** Despite the EU Directive establishing obligations in this respect, the CPC does not require competent authorities to inform victims of the release of the suspect/offender. There is some indication that this results in inconsistent and inaccurate information.

**Problem 16: Information is provided in an inconsistent manner.**

**52. Information is not provided uniformly between individuals, between organizations, or on a geographical basis.** The lack of legal requirements, guiding documents, or practice directions appears

to be driving an individualized approach to the delivery of information. To some extent this may also reflect the desire of some practitioners to retain broad flexibility and independence in their approach. In addition, different actors and institutions dealing with victims—such as health providers, police, prosecutors, judges, and lawyers—provide victims with information on support services. Without proper co-ordination this can also produce inconsistencies.

**53. Information is usually provided during the first contact with police, though it is not clear what information is provided and whether this is the same for all cases.** Interviews indicated that certain victims of crime are provided with different or more information on their rights than others and that they may receive information from different organizations, in different ways, at different points in time. This likely reflects the lack of detailed guidelines, protocols and practice directions on the issue.

**54. The provision of information is dependent on the goodwill and commitment of individual practitioners and often depends on the efforts of victims.** Those who are more trained on victims' issues are more involved with the victim and know better what information to provide and how (e.g. trained judges, prosecutors and police). Good examples of information provision can be found in the four higher public prosecutors offices which provide information proactively to victims. In various instances, victims are also dependent on NGO's to provide information. Strong contacts with state institutions affect the success of this approach.

**55. Consistency of information provision between organizations appears problematic.** The CPC provides little guidance as to which authorities should be responsible for providing which information (where this is a requirement). Thus several state and non-state actors have developed their own practices for delivering information but have not necessarily coordinated their approaches.

**56. Uncoordinated information provision carries a number of risks for victims.** Such risks include the provision of incoherent or inconsistent information between different criminal justice agencies which can reduce confidence in the justice system. It also risks wasting resources due to duplication<sup>16</sup> and can result in a lack of continuity in the provision of information. Further confusion can arise where victims do not receive information early enough.<sup>17</sup>

**57. Lack of coordination is potentially limiting the success of pilot projects.** Highly positive projects have been established for victim support in the court and prosecution services, as well as through the development of protocols in the police. However, there appears to be little co-ordination between the projects which could increase their effectiveness.

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<sup>16</sup> Section based on HMI report (2013): "Receiving two letters delivering the same message can cause the victim some confusion," the inspectorate said. "Especially as a number of them do not understand the difference between the different criminal justice agencies they encounter. "Occasionally the victim is sent letters giving two different outcomes to the case, or inconsistent information," it added, because witness care units "do not always have access to, or are not copied into" victim care liaison unit letters. "Different messages can understandably cause the victim some distress or confusion, and result in lack of confidence in the criminal justice system. Furthermore, given the financial constraints on both agencies, it is wasteful on resources to duplicate work." (HM Crown Prosecution Service Inspectorate (2016). Communicating with victims, UK). See also Lindgren et al, 2011, p. 103 ; a lack of information is oftentimes causing a lack of trust in the police and satisfaction with the efforts they undertake for a victim

<sup>17</sup> The lack of systematically (electronically) exchanging information is further supported by the Judicial Review by the World Bank (2014, p. 322 and further) who found the exchanging of files is still oftentimes mailed or hand-delivered, documents are sometimes scanned, and systems are not interoperable.



**58. Coordination gaps when a case is transferred from the police to the public prosecutors' office increase risks of secondary victimization.** There appear to be no clearly established rules or agreements to ensure prosecutors are informed of what information victims have received from the police, nor to ensure that information obtained or provided by police matches information obligations of prosecutors. Victims may therefore be provided with duplicate information unnecessarily, may not receive all necessary information, or may be overburdened by this system. This may also create a more expensive system of information provision.

**59. There appears to be no coordination between police and prosecution in the collection of information on victims.** It seems information collected by the police is only accessible by the prosecution in hard copy when the prosecutor meets the police. The prosecutor then copies this information to his/ her own file. Further research is required, but concerns have been raised over the inefficiency of the system and the risk that potentially useful information is not collected at the right time.

**60. There is no formal, national (general) protocol, guidance or other mechanism** on the provision of information to victims to ensure information is provided and is provided consistently throughout the country.

**61. Good practices in information sharing do exist.** For example, in the information sharing network of ASTRA, several NGO's across Serbia share information and refer victims of human trafficking. Whenever a case is referred to another NGO, the victim is asked for permission to share their information and the file is fully transferred together with needed commentary. All parties therefore know exactly who shared what information with victims, so there is no overlap, missing information or burden on a victim to collect parts of information.

#### **Problem 17: Information is not provided proactively to victims.**

**62. In contradiction to Article 4 of the EU Directive, in many cases victims are not provided with information proactively.** For example, communication of decisions to victims after filing a complaint is largely dependent on the victim's efforts, the relationship to a public prosecutor and his or her willingness to cooperate with the request of the victim. This imposes an additional burden on victims when they are at their most vulnerable and least able to demand information.

#### **Problem 18: There are insufficient mechanisms to ensure information is provided through a range of media and in an easy and accessible form.**

**63. Overall there is insufficient focus on using different media to provide information.** For example, whilst information is generally provided orally, it is only occasionally provided through leaflets, and there appears to be no clear online entry point for victims to obtain information on their rights.

**64. Pilot projects are an important starting point for broadening delivery of information but can be limited in scope.** For example, the Information Service for Injured Parties and Witnesses at the Higher Prosecutors Office in Belgrade provides information on injured parties' and witnesses' rights in the criminal procedure in brochures, by phone and electronic communication but is limited to the

Belgrade office. Similarly, a leaflet developed in that service is sent to witnesses but not necessarily to all victims. The leaflets have been positively received but their impact could be greater if they were more widely distributed and contained more information as required by the EU Directive.

**65. Despite EU obligations, no measures aimed at ensuring that information was produced in a simple format.** Neither were measures found to ensure practitioners are trained and made aware of the importance of adapting their language to the situation of the victim.

**Problem 19: Lack of human resources inhibits the ability to meet obligations to provide information.**

**66. Important initiatives or pilot projects providing victims with information do so without additional resources through officers having other duties.** This risks that they are insufficiently focused on victim oriented tasks. For example, some interviewees stated they couldn't provide information proactively due to a lack of resources. Often they focused on specific victim groups such as domestic violence and human trafficking victims at the expense of others. This risks creating dissatisfaction amongst service providers and reducing quality of service.

## 5 INTERPRETATION AND TRANSLATION

### 5.1 Interpretation and translation rights under the Directive

**67. The EU Directive provides for interpretation and translation for victims.** According to Article 7(1), when a victim doesn't speak the language that is used during the criminal justice proceedings he or she should be provided with interpretation, free of charge, during any interview or court hearing, in accordance with his/ her role in proceedings.

**68. The Directive establishes the right to receive translated copies of documents related to their case in a language they can understand.** This is available to victims in accordance with their role in proceedings and for documents essential to the exercise of their rights in criminal proceedings. The Directive also sets out minimum requirements as to what documents must be translated.

**69. The translation of key documents and decisions are important to ensure that the victim can fully participate in their case, understand what actions are taken and the reasons behind such actions.** The right also ensures that information is provided in a manner that can be understood (e.g. taking into account linguistic abilities, emotional and intellectual capacity and literacy).

### 5.2 Interpretation and translation under Serbian law

**70. The CPC establishes the right to interpretation and translation.** Article 11 states that "parties, witnesses and other persons participating in proceedings are entitled to use their own language and scripts during proceedings" and that the costs of interpretation and translation will effectively be borne by the government.

**71. The CPC goes beyond the requirements of the EU Directive.** Whilst the EU Directive has limited rights in this area to specific situations (e.g. interviews, participation in the trial, or for specific documents) the CPC establishes no such limitations.

**72. Nevertheless, Article 11 CPC does not establish interpretation and translation rights specifically for victims/injured parties.** Rather it refers to "other persons participating in proceedings". In most instances this may well cover victims. However, the wide discretion for determining who should have access to the service risks that some victims in need may not receive them.

**73. Contrary to the EU Directive, there are no specific provisions establishing the right to challenge a decision not to provide interpretation or translation.**<sup>18</sup> Article 438 (5) of the CPC establishes the right to appeal against the judgment of the court where interpretation and translation was not provided. Whilst this may be an effective appeal system for the defense, it is not helpful to the victim to appeal a judgment where there is a guilty verdict. Even in the case of a not-guilty verdict, it is likely to be damaging to the victim to go through an appeal process. The appeal system should in fact be focused on the decision on interpretation and translation.

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<sup>18</sup> See Väättäinen, S., Needs assessment report of the witness/victims support status in the Serbian criminal justice system, p. 26.

### 5.3 Interpretation and translation in practice

**74. Most interviewees indicated there are no problems with interpretation for victims stating it is always provided when needed and is free of charge.** It seems responses were focused primarily on situations where interpretation was necessary for the progress and success of the case (e.g. interview by the police, testimony during trial). However, there are several examples of cases in which interpretation was not available in parts of the proceedings or was not free of charge (e.g. an NGO had to arrange and pay for translation as the translation by the judicial practitioners did not seem to function well and delayed the process).

#### Problem 20: No clear information on translation needs.

**75. In contrast to interpretation, issues relating to translation of documents appear less clear cut.** According to interviews, there was no information on how (well) translation of documents is regulated. It was pointed out it is needed in only very few cases as there seems to be a limited number of foreign (language) victims in Serbia.

#### Problem 21: Translation requirements are not met in practice.

**76. Despite positive responses in the interviews, the Survey results indicate that stakeholders have concerns over translation:**

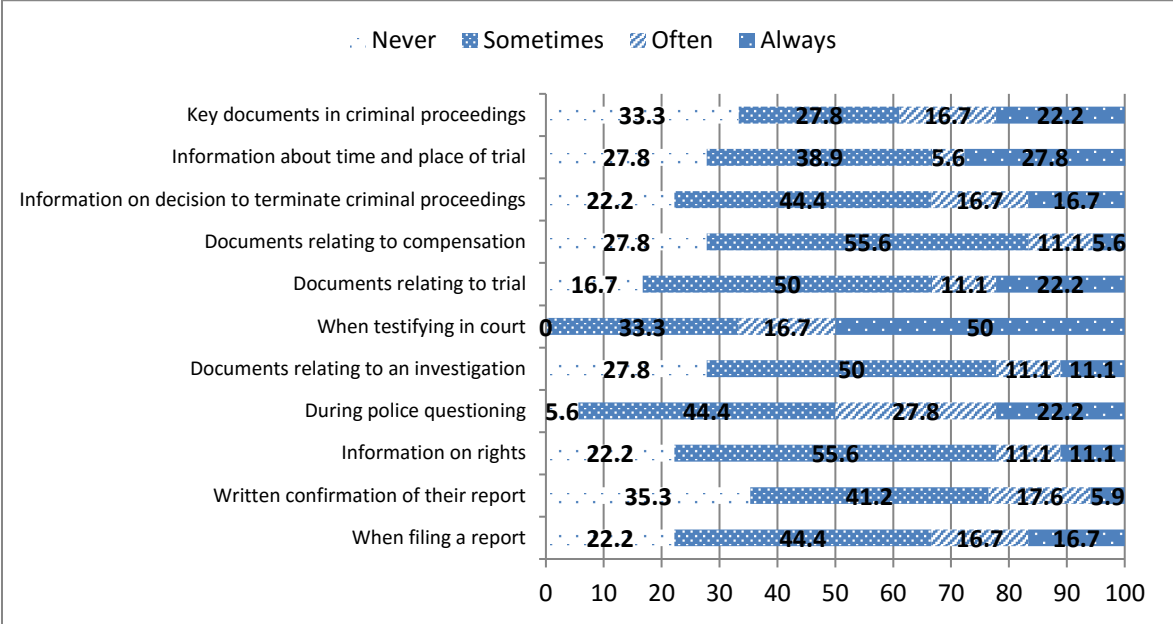
- 60% of respondent felt that the following were challenging problems: translation is not available, translation is only available in certain languages, and translation of documents requires a lot of time.
- 35% of respondents felt a written confirmation of a victims' complaint was 'never' translated
- Only 33% reported that the complaint itself could be made in the victim's own language always or often. This can inhibit the reporting of crime as well as reduce the quality and accuracy of the statement taken.
- 56% of respondents indicated that information on a victim's rights was only 'sometimes' provided in translation.
- 44% of respondents felt that translation during police questioning was only available 'sometimes'.
- 15-25% of respondents felt that translation of documents related to the trial for instance was never available while 50-55% felt they were only sometimes available.
- 22% of respondents felt translation of the explanation of a decision to terminate proceedings was never provided while 44% said it was provided only sometimes.

**77. Results for translation during trial/hearings were more positive.** In particular, 56% stated translation is 'always' provided and 17% stated it is 'often' provided.

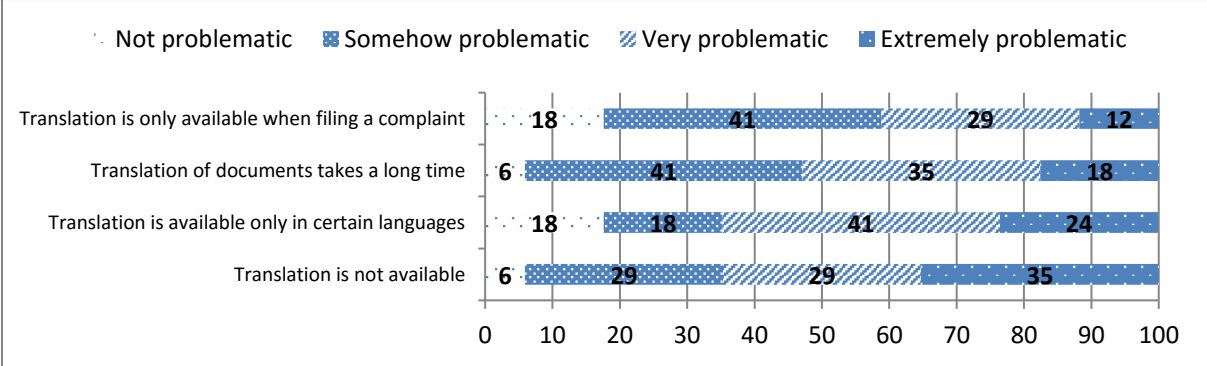
**78. Strong discrepancies in perception of translation issues exist between justice practitioner and VSOs.** This survey does not provide actual outcome data but does show clear differences in views about problems in the area. Further research is required to assess whether victims who need language assistance receive it in all cases and, if not, what the drivers are for such problems.

**79. Additional practical questions remain to be examined.** For example, how long the translation of a court file takes and how this differs when an uncommon language is involved. Based on experience in other Member States, these are risk issues which should be evaluated.

**Figure 8. Translation provided**



**Figure 9. Problems with translation for victims**



**Problem 22: There seems to be no proper mechanism to regulate the (process of) translation.**

**80. There appears to be no mechanism to systematically regulate the translation process in line with the EU Directive.** This mechanism is necessary to ensure a transparent, effective and consistent system for making translation decisions such as whether a victim is entitled to translation, what translation should be carried out, the timing for such translation, and the appeal process against negative decisions.

**81. Overall, there are markedly differing views between State and non-state actors** as to whether the system of interpretation and translation functions effectively and whether it is sufficiently accessible for those who need it. Further research is needed to determine in a more objective manner the extent of this problem including how the system of translation and interpretation functions and the extent to which non-Serbian speaking victims in fact have access to these services.

## 6 PROTECTION

### 6.1 Protection rights for all victims under the Directive (Articles 18 and 19)

#### KEY ASPECTS OF VICTIM PROTECTION

**Victims should be protected.** Victims and their family members should be protected from secondary and repeat victimization, from intimidation and retaliation, including against the risk of emotional or psychological harm, and from physical harm. The dignity of victims during questioning and when testifying should also be protected.

**Contact between victim and offender should be avoided.** Contact between victims (and their family members, where necessary) and the offender should be avoided within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact. In practice this means that victims and offenders have separate waiting areas.

**Victims should be protected from further harm during criminal investigations.** In different phases of criminal investigations victims should be protected from further harm by ensuring that *interviews* are conducted without unjustified delay and are kept to the minimum required for the criminal investigation. Victims are *entitled to be accompanied* by their legal representative and a person of their choice. Victims must only undergo *medical examinations* where strictly necessary and these should be kept to a minimum. This is aimed at reducing the harm to victims – particularly victims of sexual violence – of having to go through repeated examinations, possibly by different people at the request of different authorities or parties to proceedings.

### 6.2 Protection for all victims under Serbian law

**82. The CPC regulates the protection of victims through provisions relating to especially vulnerable witnesses and protected witnesses.** It is understood that provisions of the Law on Juvenile Offenders and Criminal Protection of Juveniles are also relevant though these have not been examined for this report. Physical protection is possible under the Law on the Protection Program for Participants in Criminal Proceedings.

**83. The right to avoid contact between the victim and the offender is to some extent regulated in the rules of the CPC related to witness protection – especially vulnerable witnesses.** It is understood that the Law on Juvenile Offenders and Criminal Protection of Juveniles contains further provisions. Article 104 of the Serbian CPC stipulates that an especially vulnerable witness may not be confronted with the defendant, unless the defendant himself requests this and the authority conducting proceedings grants the request, taking into account the level of the witness's vulnerability and rights of defense. However, the approach taken in the CPC leaves gaps in coverage as compared to the EU Directive.

**Problem 23: Avoidance of contact is limited only to especially vulnerable witnesses and juvenile witnesses.**

**84. Rules on avoidance of contact between victim and offenders are limited to especially vulnerable witnesses or juvenile witnesses.** As such, they do not apply to all victims of crime as

required in the EU Directive. Moreover, the right of the victim to avoid contact with the perpetrator can be overruled when the offender so requests.

**85. While ‘avoidance of contact’ is not an absolute rule, procedures should be in place to determine the need for any contact between offender and victim.** Limitations on the requirement to avoid contact should take into account the general objectives of the EU Directive including the protection of the victim from intimidation and secondary victimization, while also ensuring the right to a fair trial for the defendant. This implies that where contact between victim and defendant is being sought procedures should be in place to determine if contact is genuinely necessary for the proceedings and whether the objective of contact can be achieved via other means (e.g. questioning by defense counsel).

**86. The CPC provides for the confrontation of the defendant with witnesses where their statements do not match.** The CPC stipulates the exact procedure for this and requires that the defendant and witness are sat opposite each other, that they read out their statements and discuss the veracity of their statements. Generally this confrontation is not permitted with respect to vulnerable witnesses unless the defendant requests the confrontation and the authority conducting the proceedings allows it having in mind the vulnerability of the witness.

**87. Requiring a victim to sit opposite the person who victimized them and to effectively argue over what happened can be highly damaging to victims irrespective of whether they are deemed vulnerable or not.** *No EU Member States were identified which operate such a system of confrontation in an investigation.* The principle of confrontation is often seen within the context of a trial but under well-regulated circumstances and not in such a potentially harmful manner.

**88. Contrary to the Directive (Art 19(2)), no legal regulations were identified requiring that new court buildings have separate waiting areas for victims.**

#### **Problem 24: No specific requirements to limit medical examinations.**

**89. The CPC’s limitation of examination of the injured party is insufficient to align with the EU Directive.** Article 127 of the CPC provides for the physical examination of the injured party by an expert in cases of doubt about the injuries. This requirement may be met through medical documentation or other data in the case file if a physical examination is not necessary in the opinion of an expert. Article 127 thus provides some limited opportunity to minimize medical examinations but does not indicate this as an objective, does not provide guidance on the circumstances in which medical examination is not necessary, and establishes no other requirements to limit examinations.

**90. Requirements for psychiatric examination of witnesses raise concerns.** The 2011 CPC introduces, arguably, a highly controversial possibility to request a psychiatric examination of a witness where there are doubts as to the capacity of the witness to convey his knowledge or observations.<sup>19</sup> Other jurisdictions also use psychiatric examinations, however, detailed rules are established setting out the purpose of the examination which is focused on situations where there is doubt over the

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<sup>19</sup> See Skulic M, Position of the victim of crime / injured party in Serbian criminal law – current status, needed and possible amendments, December 2015

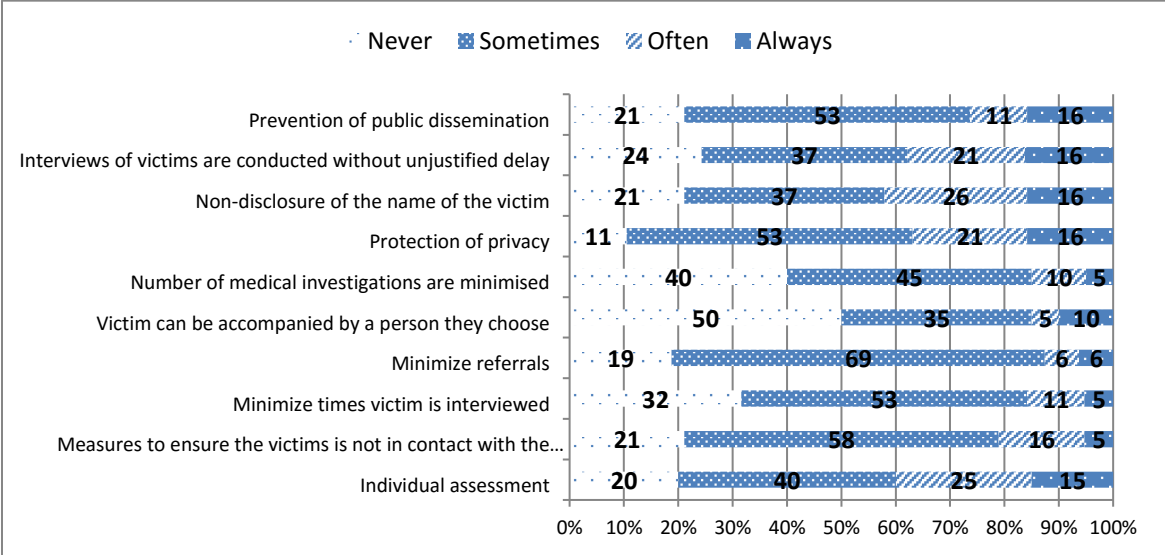
credibility or reliability of a witness. The ability to convey information is not normally used as a reason for a medical examination.

**91. Concerns over the ability to convey information should be resolved through support measures not psychiatric examination.** Some victims may have difficulty expressing themselves, in particular those with learning difficulties and mental capacity issues. The primary means to help such victims should be through support (e.g. use of an intermediary to interpret questions for the witness) rather than psychiatric examination. This will improve their evidence and support their participation in proceedings. The current approach of the CPC raises a number of concerns in terms of compliance with Articles 1, 18 and 22 of the EU Directive.

**6.3 Protection for all victims in practice**

**92. Protection of victims is considered important by practitioners, however respondents indicated broad concerns over the availability and use of protection measures for victims.** With respect to measures for all victims, only 21% of stakeholders felt that measures were in place to avoid contact often or always, while only 16% said such measures were in place to minimize interviews. The figure was even lower (15%) with respect to a victim being accompanied by a person of their choice and to minimizing medical exams. The situation is slightly better with respect to interviews taking place without unjustified delay (37% believed this was the case always or often). Nevertheless, even if necessity, judicial discretion, and other acceptable limitations are taken into account, the results provide a strong indication that these rights are not provided for in practice.

**Figure 10. Protection measures for all victims**



**Problem 25: Insufficient measures to prevent contact between victims and suspects.**

**93. Victims often face offenders during investigative procedures.** Generally, victims are asked to testify with the offender present. The investigative authority will often first come into contact with the offender and secondly contact the victim. Normally the victim sits face to face with the offender during his or her testimony.



**94. This confrontation can harm the victim psychologically and can unduly influence their testimony.** The system is also creating undue burden on prosecutors who recognize the potential harm the system is having on victims. In particular, it appears there are no detailed protocols or guidance in place to avoid harm to the victim where a confrontation occurs.

**95. Prosecutors are left to put in place ad hoc measures to prevent harm.** Interviews showed that the confrontation between victim and offender has to be managed in a creative manner. An example was provided where an offender who behaved violently towards the victim in the prosecutor's office was physically separated by putting tables between both parties.

**96. Avoidance of contact is possible, but only as an exception to the rule.** The investigative authority can initiate an administrative procedure to avoid contact between the victim and suspect, but this operates as an exception to the normal procedure requiring contact. Concerns over harm to victims are resulting in prosecutors repeatedly initiating the avoidance of contact procedure thus imposing additional administrative burdens on them.

**97. Some interviewees state that the victim and offender should come into contact in order to protect the rights of the defense, yet it is questionable how the rights of the defense are impinged where non-contact is imposed.** It is clear from existing practice across many countries that such rights can be protected without requiring the victim to face the offender. It is notable that defense rights and fair trial rights are repeatedly advanced as reasons for not putting in place measures to adequately protect victims. The EU Directive has been carefully drafted to take into account fair trial rights and is in full accordance with the EU Charter of Fundamental Rights. As such, wide ranging defense rights arguments should be followed carefully and such arguments should rather be considered on a case by case basis where there is an individual and specific risk of a breach rather than resulting in broad ranging restrictions.

**98. During criminal trials measures don't seem to be in place to avoid victims and offenders coming into contact.** However, the court Victim and Witness Service provides a good example where separation is attempted. The service seeks to co-ordinate different arrival times for the victim and defendant. While this is a positive approach, there are also limitations to this initiative including the fact that avoidance of contact within premises needs to be assured and that this initiative only applies in a limited number of courts.

#### **Problem 26: The current system does not fully protect victims from delayed interviewing**

**99. There appears to be a lack of specific measures or requirements which would ensure interviews take place without unjustified delay.** Moreover, guidance or rules on situations which may constitute justified delay were also lacking. These findings are backed by 37% of respondents who think that first interviews are often or always carried out without unnecessary delay.

**100. Interviewees indicated that interviews with the victims are generally carried out right away, but the benefits of interviews without unnecessary delay are also limited because first interviews cannot be used as evidence.** This problem is further exacerbated as there can be lengthy delays between a first interview and follow up interviews by prosecutors.

**Problem 27: Witnesses and injured parties have to repeat their testimonies.**

**101. More than half of Survey respondents (53%) state that the number of interviews is only minimized in some cases.** This suggests that minimization of the number of interviews is not standard in Serbian investigative procedures contrary to Article 20(b) of the EU Directive – even when taking into account limitations relating to rights of the defense and judicial discretion.

**102. The negative impact of repeat testimonies is well documented and is reflected in the concerns of Survey respondents,** of which 90% find it very to extremely problematic that a victim is questioned multiple times, by multiple professionals. Similarly, victims in Serbia very often complain about repetition and facing many different interviewers.

**103. The criminal investigative procedures as set out in the CPC automatically require a victim, injured party or witness to repeat statements made during a first police interview.** The current Serbian CPC states that the police may interview a victim at the time of complaint but that only an interview carried out by the investigative authority (i.e. the prosecutor) will be admissible as evidence. It is understood that this is a change in approach established by the CPC of 2013. The fact that the testimony of the victim cannot be recorded as evidence by the police is considered problematic by 90% of survey respondents.

**104. The objectives of this approach are not clear, but it is speculated the aim is to prevent victim statements differing between the police and prosecution.** Arguably this objective can be met through other approaches and in addition, if this is the problem at issue, it fails to recognize that victims' recollection of events normally can and do vary over time. This does not necessarily mean that statements are not correct, but that the memory focuses on different aspects of the crime and understands what happened in different ways at different times. This means that important information taken immediately after a crime can be lost where it is not subsequently useable as evidence and where a victim may forget that information.

**105. Delay between the statements to the police and prosecutor can influence victims to present contradictory statements or testimonies.** Interviewees say that while the prosecutors are informed of a complaint as soon as possible, it might not be possible for six months to a year to start the investigation and take the statement which would be admissible as evidence.

**106. The EU Directive is flexible in minimizing interviews, taking into account the numerous circumstances which may require additional interviews.** Even so the current approach risks running contrary to Article 20(b) of the Directive. Even if it were not contrary to the Article 20(b) of the Directive, the approach remains harmful to victims due to the repetition of interviews. The approach runs counter to the ultimate objective of Article 20(a) of the Directive (to conduct interviews as soon as possible after a crime) and it is likely the aims of the requirement could be achieved through alternative means.

**107. The majority of interviewees support a change in the CPC such that information obtained at the time of complaint would be admissible as evidence.** Interviewees pointed out that any change could allow for additional interviews if necessary and on issues that need to be clarified.

**108. Specific laws seem to be in place to avoid repetitious testimonies for children.** Whilst specific laws relating to children were not examined, interviews indicated that these laws include provisions to limit repeat interviews of children. The overall impression from interviews is that the system of protection for children in criminal proceedings is relatively well established.

**Problem 28: In practice medical investigations are not always minimized.**

**109. Medical investigations are not always minimized.** According to most VSOs, medical investigations are not (40%) or only sometimes (45%) minimized for victims. Moreover, the Survey did not identify any specific practices to limit medical examinations. This reflects inadequate regulation in the CPC.

**Problem 29: Victims cannot be accompanied by a trusted person during criminal proceedings**

**110. Following the CPC victims of crime can in fact be accompanied by a legal representative but not by a person of their choice.** 50% of Survey respondents report that victims of crime can never be accompanied by a person of trust and a further 35% report this is only sometimes possible.

**111. Interviewees state that they have to abide by the CPC and can't allow a trusted person into interviews.** This appears to reflect concerns that the person accompanying the victim may influence their evidence. However, clear rules and provisions can be established to help avoid this. Moreover, the EU Directive explicitly recognizes authorities may refuse a victims' choice through a reasoned decision where the 'course of criminal proceedings would be prejudiced'.

**112. Juvenile victims of crime can be accompanied by a trusted person during interviewing and in court.** This reflects Serbian Juvenile law.

**Problem 30: Measures to protect victims are not always consistently implemented**

**113. The Survey shows that there are problems with consequent and consistent implementation of protection measures.** Qualitative data show that protection measures are not always consistently implemented. While a victim of crime might be in a separate waiting area at the police or support service, the same might not be the case in the prosecutor's office or the court, or may not be the same across the country. Lack of national legal provisions and detailed implementing rules contribute to risks of inconsistency and lack of transparency for rights holders.

## **6.4 Rights for vulnerable victims under the Directive (Articles 22 and 23)**

### **KEY ASPECTS OF VULNERABLE VICTIM PROTECTION**

**Individual assessment.** An individual assessment is carried out to determine if a victim is particularly vulnerable to further harm (secondary victimization, intimidation, etc.) and which protection measures are best suited to the victim's situation. The *EU Directive requires all victims be assessed* to avoid only certain groups being identified as potentially vulnerable. An individual assessment should be carried out in a *timely manner*, meaning it should occur within an appropriate period after a complaint is filed and needs should be reviewed over time. *Victims' wishes and needs should be taken*

*into account*. A victim should be able to express their objections to any measures. An individual assessment should be carried out in a way that *takes into account potential changing circumstances* in the course of the criminal proceedings. The *extent of an individual assessment* (i.e. how lengthy or detailed it is) can vary according to the severity of the crime and the degree of apparent harm suffered by the victim. This flexibility reduces the burden on justice practitioners. It allows for ‘less serious’ offences to have a light assessment, for certain groups to be automatically assumed as vulnerable, and for others to undergo more detailed assessments. The Directive sets out what *factors* must be taken into account in an assessment. These cover personal characteristics, the type or nature of the crime, and the circumstances of the crime.

**Protection measures.** *During the investigation*, interviews with the victim should be carried out in premises designed or adapted for that purpose, by or through trained professionals, by the same person (unless contrary to the good administration of justice), and all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, should be conducted by a person of the same sex as the victim, if the victim so wishes, provided that the criminal proceedings will not be prejudiced. In court, there should be measures to avoid visual contact between victims and offenders (including during the giving of evidence), to ensure that the victim may be heard in the courtroom without being present, to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence, and allowing a hearing to take place without the presence of the public. A special measure following the individual assessment needs to be provided 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.

**Child victims.** Children are automatically considered to have specific protection needs due to their vulnerability to secondary and repeat victimization, to intimidation and to retaliation. Child victims should also receive an individual assessment.

## 6.5 Right for vulnerable victims under Serbian Law

**114. The CPC’s limited protection measures are focused on vulnerable witnesses rather than victims (injured parties).** This risks some victims not benefiting from such measures and is therefore not in alignment with the EU Directive.

**115. The CPC provides for witnesses to be deemed vulnerable but does not establish a compulsory assessment system as required by the EU Directive.** The authority conducting proceedings may designate a witness as especially vulnerable. The ruling determining the status of especially vulnerable witness is issued by the public prosecutor, president of the panel or individual judge.<sup>20</sup> The CPC sets out factors to be taken into account to determine vulnerability – ‘age, experience, lifestyle, gender, state of health, nature, the manner or the consequences of the criminal offence committed, or other circumstances’.<sup>21</sup>

**116. This system forms the basis of an individual assessment but falls short of the requirements of the EU Directive.** In particular, it does not make assessments compulsory, does not specify which

<sup>20</sup> See The Criminal Procedure Code of the Republic of Serbia, Article 2 (15).

<sup>21</sup> See The Criminal Procedure Code of the Republic of Serbia, 28 September 2011, Article 103 and 104.

authorities should carry out the assessment in which circumstances, nor whether two assessments can be made or whether an assessment by one authority is binding on others. In addition, while the type or nature of the crime and its circumstances appear to be covered by the CPC, personal characteristics are not sufficiently covered.

**117. The CPC should take into account a wider range of personal characteristics,** including maturity, communication needs and difficulties, language skills, gender identity, ethnicity, race, religion, sexual orientation, disability, relationship to or dependence on the suspected/accused person, drug/alcohol dependencies, previous experience of crime, external life circumstances (divorce, bereavement, unemployment, etc.), and social support structures.<sup>22</sup> Arguably the CPC reference to ‘or other circumstances’ is sufficient to cover other personal characteristics. However, there is insufficient certainty over the term and ‘circumstances’ may in fact not be interpreted to cover personal characteristics.

**118. Implementation rules on determining vulnerability were not found in the Serbian system.** This is supported by the findings of Väättäinen<sup>23</sup> (2015) who states that the Serbian CPC does not provide the necessary guidelines to investigative authorities and public prosecutions on their obligation to identify victims at the earliest stage. The CPC includes factors such as lifestyle to be taken into account when deciding if a victim is vulnerable. However, no guiding documents or other measures to assist practitioners in interpreting these requirements were found. Similarly there is no explanation as to what a witness must be vulnerable to in order to be designated especially vulnerable. This is supported by responses from interviewees who could not explain precisely the meaning of all the concepts.

**119. Some protection measures exist in the CPC for especially vulnerable witnesses or protected witnesses but they do not fully conform to the EU Directive.** The CPC does not establish any protection measures as envisaged under Article 23(2) of the EU Directive. It is recognized there may be specific legislation in the field as well but none was identified. With respect to Article 23(3), the CPC establishes some measures but with a number of limitations. In particular, some measures are available only to protected witnesses rather than to victims.

## 6.6 Identifying vulnerable victims in practice

**Problem 31: Assessment of vulnerability of victims is not done in a consistent manner and practitioners lack guidance and training**

**120. There are insufficient guidelines in the CPC on how to carry out an individual assessment and little to no training is provided.** Individual assessment is mainly carried out in accordance with the CPC with no additional protocols that regulate or guide assessment of vulnerability. Assessment is based on practitioners’ own experience and expertise. However, they don’t always feel they possess the necessary knowledge or skills for a comprehensive analysis of vulnerabilities. Concerns were also

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<sup>22</sup> See Handbook for implementation of legislation and best practice for victims of crime in Europe, Victim Support Europe (Available at: [http://victimsupporteurope.eu/activeapp/wp-content/files\\_mf/1385974688NewVersionVSEHandbookforImplementation.pdf](http://victimsupporteurope.eu/activeapp/wp-content/files_mf/1385974688NewVersionVSEHandbookforImplementation.pdf) )

<sup>23</sup> Väättäinen S., Needs assessment report of the witness/victims support status in the Serbian criminal justice system, August 2015, OSCE.

raised over the emotional burden on practitioners making decisions on vulnerability without sufficient training or guidance.

**121. Positive examples exist to overcome gaps in guidance on vulnerability.** For example, in domestic violence cases, authorities often involve Centres for Social Work to assess victim vulnerability, the need for protection measures, and, if necessary, implement court ordered measures. This approach can reduce the risks of a lack of guidelines and protocols.

**122. Public prosecutors often collaborate with schools, medical institutions and other actors to obtain information on the victim's situation.** This information is used to contribute to the assessment of the level of vulnerability of the victim and identification of protection needs. While positive in some respects, the consent of the victim should be obtained – particularly if the victim does not want certain authorities to be aware of the crime. This could be particularly important if information included in the case file is subsequently made available to the defense under disclosure rules.

#### **Problem 32: Victims are not closely involved in the vulnerability assessment.**

**123. Contrary to Article 22(6) of the EU Directive, victims are rarely involved in decisions about their own vulnerability.** Any assessment process is flawed without close involvement of the victim. Moreover, excluding the victim from this process can be harmful to their recovery as it takes control away from them.

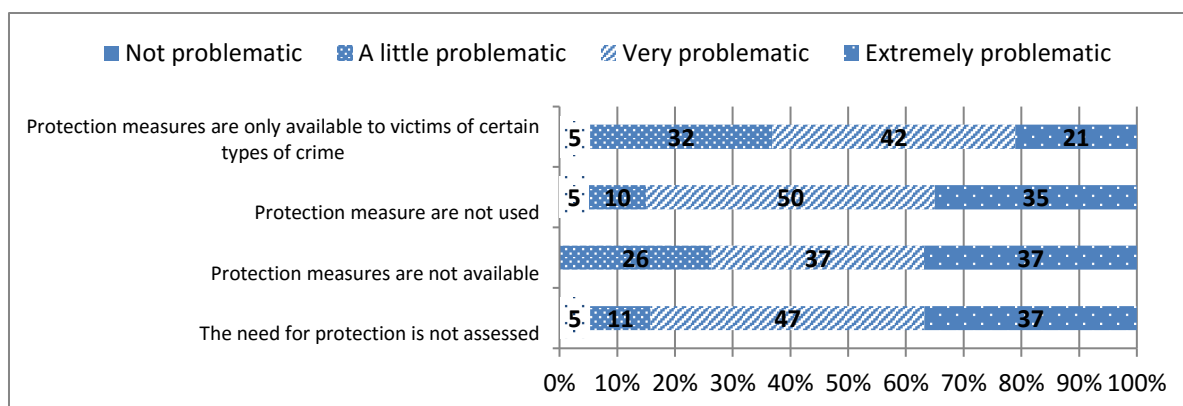
#### **Problem 33: Information collection mechanisms relevant to vulnerability result in incomplete information.**

**124. Information collected on the victim by police is not always shared with investigative authorities or judges in a coordinated way.** Often limited information is passed between police and investigative authorities before an investigation starts. In some cases the information shared is limited to the name, surname, offence, and, in particular, cases the profession of the victim. There is often insufficient information to determine the victims' vulnerabilities.

### **6.7 Protection of vulnerable victims in practice**

**125. The Survey indicated a number of challenges that limit the impact of protection measures.** The most problematic are that protection measures are not always used or the need for protection is not assessed. Often, protection measures are only available for victims of certain crimes.

Figure 11. Challenges in protection of vulnerable victims



**Problem 34: Available protection measures don't always sufficiently protect victims.**

**126. Protection measures focus mainly on protection of the victim in the premises of the prosecutor's office or court ignoring protection outside these premises.** There are many good practice examples from around Europe and the world on how to mitigate these risks (e.g. emergency mobile phones, panic numbers, or tracking bracelets on the offender), though it should be noted that the EU Directive does not focus on such measures with respect to vulnerable victims. That said, Article 18 does establish a general requirement to provide procedures for the physical protection of victims and their family members where necessary.

**127. Specific concerns have been raised with respect to the protection of victims of domestic violence in practice.** Interviewees pointed to the progress made on vulnerability assessments and the protection of victims of domestic violence. However, the Survey suggests that such victims are still often insufficiently protected as they are not always seen to be victims of a criminal offence.

**Problem 35: Protection measures are not sufficiently used.**

**128. The majority of survey respondents (85%) indicated that the failure to use protection measures is very to extremely problematic.** Qualitative data show that protection measures that are foreseen for victims of violence are not being implemented adequately in relation to the needs of victims. Respondents point to the large discrepancy between the small numbers of measures adopted compared with the much larger number of domestic violence incidents.

**129. Protection measures are only used in the context of certain types of crime.** While the Survey results showed that each assessment of vulnerability is done on an individual basis, they also indicated that certain groups of victims tend not to receive protection (e.g. victims of theft or attempted rape). In addition, the Survey results indicated that victims of human trafficking do not enjoy the same protection measures as, for instance, victims of domestic violence with respect to restraining orders.

## 7 TRAINING

### 7.1 Obligations on training under the Directive

**130. Article 25 of the Directive sets out the obligations on training of practitioners.** Training for all practitioners should be in line with their duties and level of contact with victims. Both general and specialist training should be provided to increase awareness of the needs of victims, enabling the practitioner to recognize victims and to treat them in a respectful, professional and non-discriminatory manner (Article 25 (5)). Training should be complemented by guidelines, recommendations and exchange of best practices.<sup>24</sup>

**131. There are different levels of obligation on providing training, depending on which practitioners or authorities are targeted:**

- Officials likely to come into contact with victims, such as police and court staff, must receive training (25 (1)). This includes specific training for police services and court staff on how to carry out an individual assessment to determine victims' needs for special protection measures (Recital 61);
- Judicial training academies shall be requested to provide training (25(2));
- States must recommend to legal professions that training is available to lawyers (25(3));
- States must recommend that victim support services provide training (25(4)).

**132. The requirements for training under Article 25 of the EU Directive should respect the independence of practitioners.** The different levels of obligation reflect arguments that Member States either cannot require or will have difficulty requiring judicial academies, victim support agencies and other bodies which are independent of their governments to comply with certain rules and regulations. However, for many professions, standards and qualifications are required by law. A similar approach could be adopted here.

### 7.2 Obligations on training under Serbian Law

**133. The current Analysis did not identify any obligations for training of practitioners under the Serbian CPC.** Training of judges and prosecutors is regulated in the Law on Judicial Academy, Law on Public Prosecutors, Law on Judges, Law on State Prosecutorial Council and Law on High Judicial Council. Specific laws can establish obligatory trainings (i.e. Law on Juveniles, Family Law).

### 7.3 Training in practice

**Problem 36: Training does not align with the obligations under the Directive, both legally and in practice.**

**134. There is no obligation to provide police services and court staff with victim-oriented training before coming into contact with victims (except juveniles).** In addition, no government actions promote training for lawyers, prosecutors and judges, and victim support/restorative justice practitioners as required under the EU Directive.

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<sup>24</sup> Idem



**Problem 37: Training is lacking and the content of what training does exist does not provide practitioners with sufficient knowledge and skills.**

**135. Training and additional resources in public sector victim support services is lacking.** Interviewees providing support in public services indicated they have received only limited hours of extra training mainly focused on knowledge rather than skills. Most felt the training helped with respect to information provision. Most officials however say that they rely on their own 'humanity' and 'inter-human' skills to support victims in a respectful manner.

**136. Training of practitioners does not cover all victims but focuses on particular groups.** Groups of police, prosecutors, and judges in Serbia received training on victims of domestic violence, trafficking in human beings and juvenile victims. There seem to be no justice practitioners who have been generally trained in providing support to all types of victims of crime.<sup>25</sup>

**137. Recent developments in police training on victims' issues are positive.** There has been an increase in the number and quality of training initiatives for thousands of Serbian police officers in recent years. For example, training for police officers on juvenile victims has been positively evaluated, with over 2000 police officers participating, and the Serbian police force is strongly motivated to extend training programs.

**138. Government support services in general need training for different types of crime victims.** Government funded support services expressed their need for specialized training to provide support to victims of certain types of crime. While they are extensively trained on particular issues like dealing with victims of domestic violence or juvenile issues they identify the need to be trained to support, for example, victims of sexual assault or robbery.

**139. Training is too focused on knowledge rather than skills.** Training tends to focus on legal provisions and rights rather than developing skills of professionals to understand the needs and problems of victims and treat them in appropriately. Law enforcement agents and judiciary professionals also indicate training is often not interactive enough. Practitioners lacking understanding of victims' vulnerabilities and experience with victim related issues might cause secondary victimization while in contact with victims.<sup>26</sup>

**Problem 38: There is no sustainable system in place to ensure training is provided consistently.**

**140. Training on victims is largely organized in the framework of international, often one off projects.** Interviewees referred to strong training initiatives taken by international agencies. However, those training initiatives tend to reach only a limited number of professionals dealing with victims. Furthermore they rarely extend beyond a first training cycle. Interviewees felt that other training programs also reached a limited number of practitioners and that the same practitioners attend the training events rather than new ones.

**141. There is no long-term program for initial or continuing training on victims' issues for practitioners.** Law enforcement agents, prosecutors and judges lack structural training on dealing with victims of crime. Interviewees report that integration of training in the standard curriculum for law

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<sup>25</sup> See also Lindgren, M. & Ristanović, N., p. 101

<sup>26</sup> See also Lindgren, M. & Ristanović, N., p. 89

enforcement and judiciary professionals would benefit victims of crime.<sup>27</sup> No legal requirements, supervisory boards or other bodies managing the process of training of practitioners were identified.

**142. The Survey indicated wide support for (urgent) training of practitioners.** Amongst the answers to the question on what could be improved were: “continuous and specialized training”, “a specially trained police department of the prosecutor's office”, “training of specialized VSOs, education and financial support of the state training police, prosecutors and judges”.

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<sup>27</sup> See also Lindgren, M. & Ristanović, N., p. 105: On results of the widely respected International Crime Victim Survey “The data suggested clearly an urgent need for radical reform in the organization, control, training and education of police officers toward the respect of human rights in general, and, especially, victims’ rights, which should impact positively the confidence of the public in the police.”

Also recognized by the judicial review by the World Bank (2015), p. 297-301, where the capacity of the judicial academy to meet the training needs is assessed and the need for both initial and continuous training is stressed.

## 8 COMPARATIVE COUNTRY ANALYSIS

**143. The following comparative country analysis examines victim support systems in five European Member States - Croatia (HR), England (EN), Finland (FI), France (FR), and The Netherlands (NL).** The countries selected represent different models of victim support systems which are highly successful or which have developed in a similar context to Serbia's.

**144. The models examined are:**

- Single State-run victim support service (Witness and Victim Support Offices (WVS) in Croatia);
- Single, national State-funded NGO victim support organization delivering for all victims of crime (Slachtofferhulp Nederland (SHN) in The Netherlands); Victim Support (VS) in England);
- A network of NGOs, coordinated by a steering committee of the NGO's, funded through the state (Rikosuhrpäivystys (RIKU) in Finland);
- A network of NGOs coordinated by a single body receiving funding through the state (Aide Aux Victimes (INAVEM) in France).

### 8.1 Legislative Framework

**145. All countries have established victim's rights in law.** This tends to be done through a combination of criminal procedural codes (NL), laws and regulations on general victims' rights (EN, HR, FI, FR), and even through a victims' code required under primary legislation (EN). In all countries the Ministry of Justice has a leading role in coordinating victim support. In Finland, the Ministry of Justice leads in coordination with the Ministry of Social Affairs and Health, Ministry of Interior and the police.

### 8.2 Funding

**146. For most main victim support services, funding is provided by the state (and FI and FR both recently increased funding).** In HR, NL, FR and FI, the main victim support provider receives long term funding and is largely guaranteed continuity of funding. Funding in this way enables these organizations to develop more extensive and sustainable services, as well as developing through new policies, research and training. The main service provider in England used to receive funding in the same way, though there have recently been considerable changes in the funding policy of victim support services. Local Police and Crime Commissioners now contract services, with funding received from central government. This has resulted in more diversification and arguably services which are closer to the community and more focused on service delivery and results. However, there are concerns over consistency of service and lack of continuity of funding due to the changes.

### 8.3 Universal victim support providers

**147. SHN (NL), INAVEM (FR) and RIKU (FI) are the main and only national universal victim support organizations in their country.** VS (EN) is the main victim support organization though others also provide universal victim support. In Croatia many NGOs exist to ensure support to all victims of crime. A range of specialist victim support organizations also exist in all countries for specific groups of victims such as domestic violence victims.

## 8.4 Coordination

**148. Coordination between State institutions and victim support providers is regularly organized in The Netherlands, England and France.** This is established through local protocols and agreements, but also through steering committees or national councils established by the State. These committees consist of all key actors in the field (ministries, justice authorities, support NGOs, etc.) and meet regularly to ensure a coordinated development of policies, delivery of services and resolution of problems. No formal cooperation exists in Croatia and Finland, yet Finland has a fruitful history of coordination activities between the state and stakeholders to improve victim support and legislation on victims' issues.

## 8.5 Organizational structure

**149.** SHN (NL) and VS (EN) have a board of directors and several directors of sub-divisions and branches. INAVEM (FR) has an administrative council with INAVEM acting as the coordinating body for independent members which are victim support organizations around the country. WVS (HR) consists of an organization unit in the Ministry of Justice and departments in county courts.

## 8.6 Support Offices

**150. All national victim support organizations have one head office and several sub offices or branches.** VS (EN) has branches in all counties, INAVEM (FR) coordinates 150 branches and SHN (NL) has 80 local offices. RIKU (FI) has 7 regional offices and 29 service points. In Croatia the branches of WVS are in the county courts. In all other countries, branches of the national victim support providers are present in a variety of locations (e.g. police stations, courts, separate offices, Centres for Social Work).

**151. The main victim support organizations rely on the commitment of volunteers.** In all organizations except for INAVEM (FR) the number of volunteers is higher than the number of paid staff. The ratio of paid staff to volunteers varies: 1:2.2 in FR, 1:3 in EN, 1:6.5 in FI, and 1:14.2 in HR.

## 8.7 Types of Services

**152. All national victim support organizations offer emotional and practical support as well as information on victim's rights and the criminal justice system.** In most countries organizations (EN, FI, FR, NL) also offer legal support. Other types of services offered by some organizations include accompaniment in courts, referral, and mediation.

## 8.8 Access to services

**153. All organizations provided support face-to-face, by telephone, and by email.** England, Finland, France and the Netherlands also have chat services. Support is offered to victims of crime free of charge (EN, FI, FR, HR, NL) and irrespective of a complaint being made (EN, FI, FR, NL), though statistics suggest that most victims receiving support have made a formal complaint. All main victim support organizations are able to offer support to victims across the country, thanks to a combination of a large geographical spread and tele-services. SHN (NL) and INAVEM (FR) have **emergency support**

**units** in case of emergencies or mass victimization. Most victim support providers (EN, FI, FR, NL) also provide **specialized support**. In all countries many specialized NGOs provide support to victims as well.

## **8.9 Information Provision**

**154. Information provision to victims of crime is legislated in all five countries.** The police have a duty to inform victims on their rights and on victim support services. Police in The Netherlands automatically refer victims to SHN. In France and Finland referral is possible when the victim gives his/her consent. Automatic referral by the police to the main victim support provider used to be required in England, but this is no longer the case. Victims in England and The Netherlands can access an online platform to track their crime and/or communicate with the police.






## **8.10 Training**

**155. All organizations provide training for their volunteers.** England, France and The Netherlands have their own well-established training programs and/or academies to provide volunteers and trained staff with basic and continued training. Finland also invests in both basic and continued training of all staff and volunteers. Croatia's volunteers are trained, but WVS relies on other NGOs for training.



**156. To some extent, all countries have training programs for police or justice practitioners.** Croatia makes rather limited investments in training of those actors, while in the other countries (EN, FI, FR, NL) diverse training is provided for police, judges, prosecutors and court staff. Main victim support organizations are involved in these training programs to a limited extent. However, trainings of police and justice practitioners on victims' issues in all countries analyzed show room for improvement.

**157. Quality standards on victim support exist in all countries.** In The Netherlands, England and France these indicators of performance are monitored by the government. All organizations have internal quality standards and evaluations and include victims' perspectives in their evaluations.



**TABLE 2: COMPARATIVE ANALYSIS OF FIVE COUNTRIES**

Country	 England	 Finland	 France	 Croatia	 The Netherlands
<b>Victim Support System</b>	Single, national State funded NGO victim support organization delivering for all victims of crime	A network of NGOs, coordinated by a Steering committee of the NGOs, funded through the State	A network of NGOs coordinated by a single body receiving funding through the State	Single State run victim support service (either entity in its own right or through organization delivering other services)	Single, national State funded NGO victim support organization delivering for all victims of crime
<b>Legislative framework</b>	<ul style="list-style-type: none"> <li>• Criminal Procedure Rules exists</li> <li>• Specific legislation: "Code of practice for victims of crime" (2015); Youth Justice and Criminal Evidence Act</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal Procedure Code exists</li> <li>• Victims' Rights in different of laws and regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal Procedure Code exists</li> <li>• Victims' Rights in different of laws and regulations</li> <li>• Legislation supported by circulars</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal Procedure Code exists</li> <li>• Victims' Rights in different of laws and regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal Procedure Code exists</li> <li>• Victims' Rights in chapter in CPC</li> <li>• Regulation supported by secondary legislation</li> </ul>
<b>Lead Ministry responsible for victim support</b>	Ministry of Justice	Coordination Ministry of Justice, Ministry of Social Affairs and Health and the Ministry of Interior together with police	• Ministry of Justice	Ministry of Justice	Ministry of Justice
<b>Main Victim Support organization &amp; date established</b>	Victim Support (VS) (1987)	Rikosuhripäivystys (RIKU) (1994)	INAVEM (Aide Aux Victimes) (1986)	Witness and Victim Support Offices (WVS) (2007-2012)	Slachtofferhulp Nederland (SHN) (1984)
<b>Funding for Main Victim Support organization</b>	<ul style="list-style-type: none"> <li>• Main: Police and Crime Commissioners (previous: State)</li> <li>• Other: donations; grants and contracts; fundraising</li> <li>• Budget: Total incoming resources £53.1 million (year 2014-2015)</li> </ul>	<ul style="list-style-type: none"> <li>• Main: State (previous: idem)</li> <li>• Other: Finnish slot machine association;</li> <li>• 'victims fee' - administrative fee paid by convicted persons</li> <li>• Budget: 2247500 € (2015)</li> </ul>	<ul style="list-style-type: none"> <li>• Main: Ministry of Justice (previous: idem)</li> <li>• Other: local and regional authorities, fundraising, etc.</li> <li>• Budget: Ministry of Justice: 20 million € (2016)</li> </ul>	<ul style="list-style-type: none"> <li>• Main: Ministry of Justice (previous: UNDP)</li> </ul>	<ul style="list-style-type: none"> <li>• Main: Ministry of Safety and Justice (previous: idem)</li> <li>• Other: ministries, councils, charities, others</li> <li>• Budget: 36.895.794 € (2015)</li> </ul>

**TABLE 2: COMPARATIVE ANALYSIS OF FIVE COUNTRIES**

Country	 England	 Finland	 France	 Croatia	 The Netherlands
<b>Main Victim Support organization - organizational structure</b>	<ul style="list-style-type: none"> <li>• Chief Executive and Senior Management team</li> <li>• Each Division, covering one or more PCC / Police Force areas has an administrative office.</li> <li>• Branches in all counties in variety of locations</li> </ul>	<ul style="list-style-type: none"> <li>• Management Team executive director, development director, 7 regional managers</li> <li>• Cooperation agreement with 5 NGOs and Church. National co-ordination Finnish Association for Mental Health</li> <li>• Regional offices: run by one of cooperating organizations</li> </ul>	<ul style="list-style-type: none"> <li>• French Victim Support and Mediation Institute is federation of independent victims' associations in whole of France</li> <li>• 1 head office in Paris (President + Director General + staff)</li> </ul>	<ul style="list-style-type: none"> <li>• Organizational unit within the Ministry of Justice</li> <li>• Special departments at county courts</li> </ul>	<ul style="list-style-type: none"> <li>• Board of directors (2 people)</li> <li>• three divisions (general support, legal support, programs and innovation)</li> <li>• 6 divisions in NL, each with head of general support and head of legal support</li> </ul>
<b>Main Victim Support organization - Branches and staff</b>	<ul style="list-style-type: none"> <li>• 1 head office, offices in each county</li> <li>• Paid Staff: 1300</li> <li>• Volunteers: 4000 (2016)</li> </ul>	<ul style="list-style-type: none"> <li>• 1 head office; 7 regional offices and 29 service points</li> <li>• Paid staff: 50</li> <li>• Volunteers: 300 + 25 Voluntary lawyers (2016)</li> </ul>	<ul style="list-style-type: none"> <li>• 1 head office; 130 branches</li> <li>• Paid Staff: 800</li> <li>• Volunteers: 424 (2015)</li> </ul>	<ul style="list-style-type: none"> <li>• 1 organization office; 7 support offices in county courts</li> <li>• Paid staff: 14 full time</li> <li>• Volunteers: 200 (2012)</li> </ul>	<ul style="list-style-type: none"> <li>• 1 head office; 80 local offices</li> <li>• Paid staff: 500</li> <li>• Volunteers: 1100 (2016)</li> </ul>
<b>Main Victim Support organization - Target group</b>	All people affected by crime (including terrorism, disasters, traffic accidents)	All victims of crime (including terrorism), also to specific groups of victims	All victims of crime (including terrorism, disasters, traffic accidents)	Victims in all criminal proceedings	All victims of crime (also disasters, terrorism and traffic accidents)
<b>Main Victim Support organization - support provided</b>	<ul style="list-style-type: none"> <li>• Practical, legal, social and emotional support; assistance to apply for compensation; information on victims' rights; information about national criminal justice system</li> <li>• 1.200.000 supported (2015)</li> </ul>	<ul style="list-style-type: none"> <li>• Practical, legal and emotional support; assistance to apply for compensation; information on victims' rights; information about national criminal justice system</li> <li>• 36 000 contacts and 2590 people received personal longer-term support</li> </ul>	<ul style="list-style-type: none"> <li>• Counselling, Information Psychological, Referral, Mediation, legal support</li> <li>• Victim support units in case of emergency</li> <li>• 350000 victims per year (2016)</li> </ul>	<ul style="list-style-type: none"> <li>• Emotional, practical support; Accompaniment in court</li> <li>• 3516 victims, 3588 phone calls (2012)</li> </ul>	<ul style="list-style-type: none"> <li>• Practical, legal, social and emotional support; assistance to apply for compensation; information on victims' rights; information about national criminal justice system</li> <li>• Case managers for murder, manslaughter, sexual crimes, violent crimes</li> <li>• 24/7 service for immediate face-to-face support for victims of traffic accidents and calamities</li> <li>• 182000 victims reached (2015)</li> </ul>
<b>Main Victim Support</b>	<ul style="list-style-type: none"> <li>• Covers most of the country</li> </ul>	<ul style="list-style-type: none"> <li>• Covers most of the country</li> <li>• Face-to-face, telephone, email, e-support</li> </ul>	<ul style="list-style-type: none"> <li>• Covers most of the country</li> <li>• Face-to-face, telephone, email, e-support</li> </ul>	<ul style="list-style-type: none"> <li>• Available in 7 county courts</li> </ul>	<ul style="list-style-type: none"> <li>• Covers most of the country</li> <li>• Face-to-face, telephone, email, e-support</li> </ul>

**TABLE 2: COMPARATIVE ANALYSIS OF FIVE COUNTRIES**

Country	 England	 Finland	 France	 Croatia	 The Netherlands
<b>organization - Access</b>	<ul style="list-style-type: none"> <li>• Face-to-face, telephone, email, e-support; Interpretation 200 languages</li> <li>• Free of charge and irrelevant of complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Free of charge and irrelevant of complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Free of charge and irrelevant of complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Dependent on complaint/court case before/during/after court</li> <li>• Face-to-face, email, informative letter, telephone</li> </ul>	<ul style="list-style-type: none"> <li>• free of charge and irrelevant of complaint</li> </ul>
<b>Volunteering – Main victim support organization</b>	<ul style="list-style-type: none"> <li>• Ratio: 1 paid/3 volunteers</li> <li>• Different prof. background</li> <li>• 945,709 hours volunteers/year for VS - worth £14.9 million (2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio: 1 paid/6.5 volunteers</li> <li>• Different prof. background</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio: 1 paid/0.5 volunteer</li> <li>• Different prof. background</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio: 1 paid/14.2 volunteers</li> <li>• Mainly students</li> </ul>	<ul style="list-style-type: none"> <li>• Ratio: 1 paid/2.2 volunteers (+ 70 additional students 2016)</li> <li>• Different prof. background</li> </ul>
<b>Other organizations supporting all victims of crime</b>	<ul style="list-style-type: none"> <li>• Victim Support is main universal support organization</li> <li>• Citizen’s advice supports all victims at court</li> <li>• Some local organizations - universal victim support</li> </ul>	<ul style="list-style-type: none"> <li>• RIKU is main and only organization providing victim support to all victims</li> </ul>	<ul style="list-style-type: none"> <li>• INAVEM is main and only organization providing victim support to all victims</li> </ul>	<ul style="list-style-type: none"> <li>• Many other NGOs existing all victims of crime irrespective of reporting</li> </ul>	<ul style="list-style-type: none"> <li>• SHN is the main and only organization providing victim support to all victims</li> <li>• Slachtofferloket is located in courts to provide information, advice and practical and legal support during proceedings</li> </ul>
<b>Specialized support</b>	<ul style="list-style-type: none"> <li>• Victim Support also provides specialized support</li> <li>• Different NGOs offer specific support</li> </ul>	<ul style="list-style-type: none"> <li>• RIKU also provides specialized support</li> <li>• Different NGOs offer specific support</li> </ul>	<ul style="list-style-type: none"> <li>• INAVEM’s associations also provide specialized support</li> <li>• Different NGOs offer specific support</li> </ul>	<ul style="list-style-type: none"> <li>• NGOs make a big contribution in providing specialized support</li> </ul>	<ul style="list-style-type: none"> <li>• SHN also provides specialized support</li> <li>• Different NGOs offer specific support</li> </ul>
<b>Referral of victim to victim support</b>	<ul style="list-style-type: none"> <li>• No longer compulsory</li> <li>• Currently only on request of victim</li> </ul>	<ul style="list-style-type: none"> <li>• Non-systematic referral, on victim’s consent</li> <li>• Victim informed</li> <li>• Some referral from health &amp; social services to victim support</li> </ul>	<ul style="list-style-type: none"> <li>• Non-systematic referral</li> </ul>	<ul style="list-style-type: none"> <li>• Not compulsory</li> <li>• Mainly by police to Centres for Social Welfare in particular cases</li> <li>• Police do not generally refer to Offices for victim and witness support or NGOs</li> </ul>	<ul style="list-style-type: none"> <li>• Systematic referral by police to SHN</li> <li>• 89% of cases of SHN is through this system</li> </ul>
<b>Coordination</b>	<ul style="list-style-type: none"> <li>• Coordination meetings between local PCC’s and victim support</li> <li>• Quarterly meetings between Ministry of Justice and Victim Support</li> </ul>	<ul style="list-style-type: none"> <li>• No official coordination</li> <li>• Past coordination between state actors &amp; NGOs (RIKU) for legislative changes and victim support (Victim Policy Committee &amp; Working group)</li> </ul>	<ul style="list-style-type: none"> <li>• Coordination through inter-ministerial cell (CNAV) having representatives from all stakeholders</li> <li>• CIAV - coordinating entity for disasters or mass violence</li> </ul>	<ul style="list-style-type: none"> <li>• Some cooperation between institutions and organizations providing support</li> </ul>	<ul style="list-style-type: none"> <li>• ‘Victim Policy’ Unit within the Ministry of Safety and Justice - monthly multi-stakeholder meeting with all relevant organizations</li> </ul>



**TABLE 2: COMPARATIVE ANALYSIS OF FIVE COUNTRIES**

Country	 England	 Finland	 France	 Croatia	 The Netherlands
<b>Information provision</b>	<ul style="list-style-type: none"> <li>• Victim’s code includes victim’s right to information by police</li> <li>• Victims Information Service has comprehensive website</li> <li>• Track my crime is online service for the police to communicate with the victim on case</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal Investigations Act includes right to information victim by police</li> <li>• Website of RIKU provides information; Brochures provided by the police to victims at the first contact</li> </ul>	<ul style="list-style-type: none"> <li>• CPC states information should be given by police; Circular explains how information should be provided; police should inform on accredited victim support NGO – even when no complaint filed</li> <li>• Online information for victims</li> </ul>	<ul style="list-style-type: none"> <li>• CPC - what information should be provided by the police</li> <li>• Offices for victim and witness support provide information on court proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• New legislation - more rights on information provision by police</li> <li>• General information is available through comprehensive website SHN</li> </ul>
<b>Quality standards</b>	<ul style="list-style-type: none"> <li>• Advisory government standards about intended outcomes for victims, based on the Ministry of Justice “cope and recover” model; Quality monitor between PCCs and local service providers</li> <li>• VS quality standards monitored in quarterly meetings Ministry of Justice &amp; VS</li> <li>• Victim satisfaction surveys used for evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• No official standards to be registered as victim support organization</li> <li>• RIKU evaluates own services through self-evaluation by victim support workers and customer feedback</li> <li>• Victim satisfaction surveys used for evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• Indirect indicators of performance are formally included in public budgeting to match objectives in the finance programming bill</li> <li>• INAVEM has been developing quality standards</li> <li>• Victim satisfaction surveys used for evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• No formally adopted key performance indicators exist</li> <li>• Independent Sector for Victim and Witness Support (Min Just) responsible for quality assurance, indicators set during development phase</li> <li>• Victim satisfaction surveys used for evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• SHN has a quality assurance strategy, and quality assurance staff</li> <li>• Victim satisfaction surveys used for evaluations</li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>• VS has Comprehensive accredited training program through mix of workshops, eLearning and one-to-one discussions; basic and continued training/support</li> <li>• Police, judges, prosecutors and court staff receive training on victims’ issues (majority e-learning)</li> <li>• VS is involved in police and justice practitioners</li> </ul>	<ul style="list-style-type: none"> <li>• RIKU provides basic and continued training/support to its volunteers</li> <li>• Police, judges, prosecutors and court staff receive training on victims’ issues</li> <li>• RIKU is involved in training police</li> </ul>	<ul style="list-style-type: none"> <li>• INAVEM has extensive basic and continued training program on victims’ issues</li> <li>• Basic &amp; continued training on victims’ issues for police officers; basic training judges and prosecutors; training on victims’ issues available for court staff</li> <li>• INAVEM has important role in training to police &amp; court staff</li> </ul>	<ul style="list-style-type: none"> <li>• OWVS takes training from NGOs</li> <li>• No systematic training for police, prosecutors, judges</li> <li>• OWVS is minimally involved in training justice practitioners</li> </ul>	<ul style="list-style-type: none"> <li>• SHN volunteers receive basic and continued training/support; SHN has own Training Academy</li> <li>• Training on victims exist for criminal justice professionals but room for improvement</li> <li>• SHN provides training on request of esp. police</li> </ul>

**9 RECOMMENDATIONS**

**9.1 Victim Support**

**158. Support for victims in Serbia is available through a range of state and non-state actors.** Within the State, three primary sources of support exist through pilot projects in certain public prosecutors officers and courts. These services are mainly focused on information provision with a few courts having a limited psychological service available. In addition, the Centres for Social Work provide an important support service for victims of domestic violence.

**159. Civil society delivers support through a number of diverse NGOs.** These are primarily focused on specific groups (e.g. victims of domestic violence, sexual violence, human trafficking and child victims). Only organization, VDS, appears to provide a full range of services for all victims of crime.

**160. Some of the key priorities for the development of a national system of victim support will be to ensure that all victims have access to support irrespective of location, crime type, reporting of crime or not, stage of criminal proceeding or no criminal proceedings.**

**161. As discussed above, there are four core approaches to delivering support:**

<b>THE FOUR BASIC FRAMEWORKS FOR DELIVERING SUPPORT<sup>28</sup></b>
1) Single, national State-funded NGO VSO delivering for all victims of crime
2) Single State-run victim support service (entity in its own right or organization delivering other services)
3) A network of NGOs coordinated by a single body receiving State funding
4) A network of NGOs coordinated by a Steering committee funded through the State

**162. With these approaches in mind, a number of recommendations are provided below for consideration in the development of the Serbian support system.**

**Recommendation 1: Core issues when developing support services**

- 163.** The Serbian government should:
- maximize the use of existing services and resources;
  - ensure effective co-ordination between services;
  - ensure consistent quality throughout the system;
  - minimize the number of organizations a victim must visit to receive a full range of services;
  - ensure continuity of services;
  - provide numerous access points to services;

<sup>28</sup> In all of the scenarios there may also be a range of specialist services and smaller generic services in existence receiving funding from the State or from other sources. There is a further scenario where a single NGO delivers national services and funds itself entirely. However, this example only exists in Germany and it seems highly improbable that Serbia could achieve this in the medium term given the Germany example has taken 40 years to reach its current capacity.

- ensure sufficient flexibility in the system to deliver services according to the individual needs of the victim;
- Ensure adequate identification of victims.

### Recommendation 2: A single coordinating entity to manage support services

**164. The Serbian Government is looking to establish a national network, an appropriate approach given that a number of organizations already deliver services to victims.** Thus the most efficient and viable approach to achieving a national system is likely the French model of support. A federation of organizations should be brought together under the umbrella of a single body – whether NGO, independent authority or state entity. This would enable the network to establish its own national identity (particularly important for increasing victim uptake), have a strong partnership with government, ensure there is consistency and co-ordination at a national level, and ensure standards are applied nationally.

**165. A separate consideration is whether specialist services should be incorporated into this national system** or (given the extent of existing specialist services) whether a different approach be taken. Should a separate system be taken, co-ordination mechanisms would need to be established.

**166. In-depth analysis should determine whether an existing NGO should act as the coordinating entity or whether this should be achieved through a State actor (e.g. the Centres for Social Work) or an entirely new entity.** This should entail extensive consultation with NGOs as the success of the system will be dependent on their buy in. A new or existing organization’s capacity, knowledge and expertise as well as ability to sufficiently focus on victim support should be considered. The inefficiencies of creating a new organization versus benefits of establishing a specially designed service should be weighed accordingly.

**167. In considering an existing organization, it would be important to ensure that the organization is able to sufficiently focus on victims’ issues if it already works on other issues.** Attempting to deliver a wide range of services for different client groups through a single organization can potentially result in dilution of services, insufficient focus on victims and their individual needs, and lack of expertise.

**168. Employing an existing organization could be achieved through a simple tender.** However, in other countries, governments have achieved good results through a more directed and consultative approach whereby NGOs in the field are given an opportunity to form themselves into a network in advance of any changes to funding.

### Recommendation 3: State funding for support services

**169. Successful national victim support systems are reliant on some level of state funding, and the most comprehensive systems have extensive government funding.** In Serbia, State funds could be used to help existing organizations increase their services in a specific location or expand to others, or to establish new organizations. Consistent long term funding is also crucial to the development of reliable support services.

**170. NGOs can be a cost-efficient option, reducing burden on State funds.** NGOs providing services generally don’t rely solely on State funding but also on grants or contracts for specific projects, donations and fundraising. Cost efficiency of NGOs is further increased through the use of volunteers.

**171. Establish a single fund to pay for delivery of victim support services.** Recognizing the difficulties all governments face with financing services, the single fund could be supported through one or more of the following options:

**i) OFFENDER SURCHARGES:**

**172. Offender surcharges are used in many countries with varying approaches.** Overall, this approach entails an additional fine (separate from the sentence) on convicted persons. The level of the fine varies in different countries with some also varying the amount depending on the crime or if the conviction is against a natural or legal person (legal persons paying more). Finland's fee varies between EUR40-80 while England's varies from around EUR19-214 (depending on type of crime, business or individual, youth or adult, etc.).

**173. In Serbia, an average fine of EUR40 would raise EUR1.4 million per year.<sup>29</sup>** There is the potential for even higher income depending on what acts are subject to a fine (e.g. if first instance decisions on, say, traffic violations are included this may significantly increase potential income).

**ii) INSURANCE BASED SCHEME**

**174. In some countries, funds are obtained by taking a small amount of the income from compulsory insurances.** For example, if there is a compulsory household insurance, 1 cent of income from every premium could be put towards the victims' fund. This approach is likely to result in individuals supporting victim services through an increase in premiums. However, because the impact on each premium is very small and because the income is directed to a specific and identifiable fund (rather than to the Treasury budget in general) this approach has been found more acceptable.

**iii) LEVIES AGAINST PRISONERS UNDERTAKING PAID WORK**

**175. In England, prisoners can earn wages for work in the community upon which a levy is applied, with some of that money being allocated to victim services.**

**iv) USE OF GAMBLING TAXES**

**176. In Finland, the victim support system is funded in part through payments from the gambling authority.**

**v) USE OF CONFISCATED CRIMINAL ASSETS**

**177. In some countries, some of the assets seized or confiscated from criminals are diverted to victim funds.**

**178. It seems likely that the first three options would generate new income, while the last two are more likely to result in a diversion of existing funds towards victim services.** To achieve full funding while reducing impact on any one sector, a combined approach could be taken.

#### **Recommendation 4: State funding through the single entity**

**179. Where State funding is provided, the single coordinating entity can be used as the conduit for delivering funding to local organizations.** This enables the coordinator to control quality and standards, for example. Basic operational funding from the State (at least for generic services) could be limited to those organizations which operate within the network and according to its standards.

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<sup>29</sup> This figure is based on 35,000 convictions in 2013.

## Recommendation 5: Quality Standards

**180.** A set of standards should be established and managed by the single entity, ideally as accreditation standards which organizations would conform to in order to join the network. The standards could improve the quality of both non-state and state actors.

**181.** Standards could cover organizational requirements (as often seen when organizations register as charities) as well as standards of service (e.g. with respect to training of practitioners, how support is provided, what services must be provided etc.). These nationally applied standards are crucial to ensuring high quality across the country, to establishing and maintaining the reputation of the organization, and to preventing harm to victims accessing services.

## Recommendation 6: Case management and data collection

**182.** Support for the development of an interoperable electronic case management system for victim support services should be considered. Further research on the most appropriate system for Serbia is recommended. In the development of national services, it is important to ensure that certain minimum information is collected relevant to the case, that a case history is kept including actions taken, concerns of victims/support staff, and what support is provided. This is particularly important as organizations grow and where (ideally as an exception) different caseworkers support the victim at different times or the victim moves to a different area or is referred to a different service. A case management system would meet these needs and can improve effectiveness and efficiency of services and support policy developments through service analysis (e.g. on where and how services are used and where resources are best focused).

## Recommendation 7: Coordination and referral between State and non-state actors and generic and specialist services

### i) COORDINATION

**183.** While a support service outside of the criminal justice system is essential to meeting victims' needs, justice services have an extremely important role in minimizing harm to victims and ensuring that they are able to participate in criminal proceedings.

**184.** To best achieve these results, the victim support system should be viewed holistically such that victim support works closely with justice services and vice versa to ensure both sides are fully informed (with the consent of the victims) of relevant developments. This might mean for example that victim support services accompany the victim during interviews and attending trial. It might mean that the support services are able to inform the relevant authority of factors relevant to a decision on protection measures.

**185.** Co-ordination can be achieved through a range of mechanisms. A State-led victims council incorporating stakeholders working on victims issues operates well in France to support the co-ordination and development of policies. Specific protocols and agreements can be adopted between different authorities while legislative changes can also support information sharing and co-operation. In France 'Houses of Justice and Law' bring together different authorities such as the prosecution, judges, lawyers, probation services, clerks of court, etc. to facilitate the delivery of justice for citizens – including assistance to victims. Such an approach could also be considered in Serbia. With each victim

the level of co-ordination will vary but the infrastructure enabling co-ordination and information sharing should be in place.

ii) REFERRALS

**186. Effective referral mechanisms between the police and VSOs can greatly increase the uptake of those services.** One approach is for the police (or other state actors) to inform victims about the existence of the service either orally or in a leaflet. This approach, however, is relatively ineffective in increasing victim access and is not a true referral system. It contrasts with a police referral system where there is an obligation to either provide details of each victim to support organizations (which then offers the victim support) or an obligation to ask for permission to provide details. In any case, referral systems should not impose services and support on victims.

**187. Whatever approach is taken, referral can become an extremely important route to services for victims coming into contact with justice authorities.** Importantly, the decision about referral is largely removed from the police as they do not have sufficient training and victim support knowledge to make decisions on which victims require referral.

### Recommendation 8: Delivery of remote services

**188. It is essential to provide support through a variety of means to increase access to as wide a group as possible, deliver services to victims who are not close to offices, and help target face to face services to those most in need.**

**189. Three key services should be developed as part of a national system:**

i) NATIONAL HELPLINE (116 006)

**190. A national helpline should link victims to a basic level of emotional support as well as providing practical and informational services.** The helpline can also operate to direct victims to local services or offices. Under EU law, the number 116 006 should be designated as the national number for victim support.

ii) WEB-BASED SERVICES

**191. A website providing victims with legal and practical information, as well as information on the effects of victimization should be developed.** Many victims do not need extensive support. Often it is sufficient for them to receive basic information. The website can also provide information on where to find support services (ideally through a national mapping of services) and provide webchat support. Services could also be established through mobile phone apps or text messages.

iii) MOBILE services:

**192. To ensure face to face services are accessible where offices don't exist, mobile services could be established.** This is especially necessary where establishing large numbers of easily accessible offices for victims across the whole country may not be feasible or efficient. Previous successful pilot projects in Serbia could act as a blueprint. Care should be taken that victims can access services in a confidential manner, including in a way that it is not obvious they are going to victim support services. In addition to services which may visit an area periodically, organizations may also offer visiting services where support is provided at home or in another location where the victim feels comfortable. Appropriate security arrangements for staff should be in place if home visits are deemed appropriate.

## Recommendation 9: Flexibility of service

**193. Flexibility should be incorporated into the system otherwise diverse needs will only be partially met or the victim will be directed to many different services increasing their burden.** In particular this means that opening hours should vary (e.g. not only during business hours Monday to Friday). Similarly, services should not be rigidly applied. One person may only need help repairing a broken door, another may need help with cremation services, while another might need psychological services for many years.

## Recommendation 10: Support services with prosecution and court services

**194. Ensuring that all aspects of the criminal justice system deliver in a victim-sensitive manner is an important aspect of a national support system.** Pilot projects in high prosecution offices and court services are good examples of this approach. Services in these institutions are often best focused on providing information and guidance to victims on the progress of a case and potentially on decisions relevant to protection measures, for example.

**195. Support services delivered by justice agencies should be fully coordinated with support provided outside the system.** This will help ensure a continuum of services for victims and minimize risks of duplication or gaps in service. It will also help justice authorities to target support where it is most needed and where they are in the best position to provide assistance. For example, emotional support is likely to be provided best by a specific VSO. However, a victim may need additional support services when going to court. This may include a court introduction and tour, information services on the case, etc. The victim may also need emotional support when testifying or after proceedings including with respect to the release of the offender. For all these services it should be carefully considered which organization is best placed to provide support such that all victims have access – not just those reporting a crime.

**196. To achieve co-ordination and balance of services, a single coherent system should be developed with the victim's journey from crime to post-trial directing the way services are managed and delivered.** Though different legislation, responsible ministries, authorities and more will need to be coordinated to deliver this system, this approach is the most likely to meet effectiveness and efficiency goals. A victims' council may support set up and evolution of such a system.

### 9.2 Provision of information to victims

**197. The basic foundations for aligning with the EU Directive and, more generally, providing victims with the information they need are in place.** However, legislative and practice gaps, unnecessary duplication of work, and inequalities of service provision between authorities, geographical locations or victims groups need to be addressed to align with the EU Directive and to establish a more efficient system of information collection, sharing, and provision.

**198. Some problems appear to stem from different authorities developing their own information systems without sufficient co-ordination or legislative guidance.** Changes should therefore be carried out in a systemic way having in mind the end to end journey of citizens from before victimization occurs to the aftermath of victimization and the investigative process, trial process, and post-trial situation.

**199. This will not only meet the needs of victims (and the EU Directive), but also maximize synergies between organizations thus reducing administrative and financial burdens on authorities.** A more streamlined mechanism for collecting and disseminating information could both increase victim satisfaction whilst reducing current burdens on practitioners.

**200. This requires changes to legislation such as the CPC as well as detailed implementing rules through secondary legislation, binding practice guidelines, protocols, guidance and training.** The following Articles of the EU Directive on information provision will need to be transposed in law, practice or both:

Article	Issue
3(2)	Communications in simple/accessible language
4	Information on first contact
6	Information about the case
9	Information provided by victim support services
11	Information on decision not to prosecute and review of the decision
12(b)	Information about restorative justice processes
26(2)	Information and awareness raising campaigns

**201. The recommendations below follow the obligations established in the EU Directive, but, in the interest of transparency and clarity, it is also recommended that procedural legal rights and obligations relating to victims are contained, as far as possible, within a single chapter or section of the CPC or that rights are grouped together as much as possible.** This approach has already been taken in the CPC with respect to the Defendant – Chapter VI – The Defendant and Defence Counsel, 1 –The Defendant – The Defendant’s Rights.

**9.2.1 Legislative Changes on information provision**

**202. The European Commission and the European Court of Justice are very cautious in accepting non-legislative measures as sufficient implementation.** Thus while not all obligations or rights established in the EU Directive require legislative implementation, many do and the recommendations below aim to indicate where it appears necessary to carry out legislative changes in addition to instances where legislation would be useful but not necessarily an absolute requirement.

**203. Overall the CPC should clearly outline (even if further implementing provisions are also required), what information must be provided, which authority is responsible for providing it, when it must be provided, and in what form.**

**9.2.1.1 Information on first contact**

**Recommendation 11: amending the CPC on what information should be provided**

**Option A**

**204. The CPC should be amended to clearly set out which authority must provide all the information required under Article 4(1) of the EU Directive.** It could be argued that the CPC should not enter into this level of detail. However, these are clear and precise requirements. Moreover, the CPC has already established a good precedent with respect to suspects’ rights through Articles 8, 68



and 69. Through those Articles, the CPC establishes an overarching obligation to inform a suspect of their rights. Further obligations are subsequently laid out as to the precise information which must be provided to the suspect, when it must be provided and how. To follow the same approach for victims would maintain a balanced approach in the CPC whilst sending an important political signal that the rights of defendants and victims are of equal importance. Given the CPC is relied on as the main source document for obligations on courts and prosecutors, inclusion of rights at this point is likely to be the most effective means of ensuring information is provided in practice.

#### **Option B**

**205. An overarching requirement to provide information to the injured party on their rights and responsibilities can be established in the CPC, while the contents of the information can be further regulated by an act of the responsible Minister of Justice.** This could be achieved either through a new article, as Skulic suggests, or it might also be feasible through an amendment to Article 8 (recognizing that adjustments should not affect the rights of defendants).

#### **Recommendation 12: on who should provide the information**

**206. It is advisable that the CPC be amended to require the police to provide initial information as required by Article 3 (and ideally as recommended above), since it is likely the first authority to come into contact with a victim.** It was considered whether the public prosecution service should be the main competent authority to provide the information. However, information could be delayed as first contact with the police and the prosecution acting on the complaint and/ or meeting a victim can take months. This would at the least run the risk of failing to meet the ‘without unnecessary delay’ requirement of Article 3 of the EU Directive. It could also delay victims’ access to rights and services. However, it should be considered whether the Public Prosecutor should provide the same information (in addition to the police) where follow up contacts occur. Information could be provided when the Prosecutor initiates contacts with the victim.

#### **Recommendation 13: on provision of information by other authorities**

**207. In implementing Article 3 of the EU Directive, the Government should assess whether other authorities in Serbia may receive criminal complaints and whether they too should provide information to victims.** Whilst in most situations it can be expected that the police will be the first authority to receive a complaint, others authorities such as customs, immigration and health and safety authorities may also receive criminal complaints.

#### **Recommendation 14: on ensuring simple and accessible information**

**208. Because the EU Directive requires that information is provided in a simple and easily accessible the CPC should be amended to include the requirement to provide information in a simple form.** This is likely to be the most effective and efficient means to ensure that authorities on which the obligation applies will put in place appropriate measures. However, it may be sufficient to implement the simplicity requirement through secondary legislation or other protocols which are binding on the relevant authorities.

## Recommendation 15: on information through a range of media

**209.** As a minimum it is recommended that the CPC stipulates that information be provided in written form, to ensure this information will be uniform and can be referred to in the future. Recital 21 of the EU Directive indicates that information should be provided through a range of media and should be easily understood by the victim. It is arguably not necessary to establish detailed rules through the CPC though this is likely to be the most effective means of achieving information provision through different media. Further details on different options for providing information can be set out in implementing rules. Further recommendations on practice are provided below.

### 9.2.1.2 Information about the case

**210.** The CPC requires that a range of information is provided to injured parties relating to the case but it does not cover all aspects of Article 6 of the EU Directive. Given the specific nature of the obligations under the EU Directive, it is recommended that the CPC is amended to ensure this information is provided.

## Recommendation 16: on content of information about the case

### Option A

**211.** The basic content of information is amenable to inclusion in the CPC. This relates in particular to Articles 6(1) (a-b), 6(2) (a-b), 6(3), 6(5), 6(6) and 11(3) of the EU Directive. Where restorative justice services such as mediation take place within the context of criminal proceedings, information requirements established under Article 12(b) of the Directive should also be included in relevant legislation.

**212.** It is recommended that these obligations are contained in the CPC as they establish the basic rights, while further details in terms of exactly how the information should be provided, in what format etc., can be determined through subsequent implementing measures. As recognized above, this approach follows that already adopted with respect to defendants' rights. It is therefore not overly procedural or burdensome to include in the CPC.

### Option B

**213.** An alternative approach would be to establish a broad duty on the appropriate authority to provide information to the injured party on their rights and duties, with further details regulated in an act of the Minister of Justice. Skulic's analysis explores the use of the mandatory general instruction of the Republic Public Prosecutor to detail contents of any information. He raises questions over whether such an approach could give rise to arguments of a breach in fair trial rights. While defense counsel may seek to raise such objections, it is difficult to see how such arguments can be legitimately grounded where the information provided is solely to inform victims of their rights. Moreover, it should be emphasized that such concerns have been raised over the last fifty years of the development of victims' rights in Europe. Substantial developments in the duties of police, prosecution, court staff, and judges towards victims have been achieved in the light of such concerns and in a manner which fully respects fair trial rights.

## Recommendation 17: on who should provide the information

**214. The Public Prosecutor appears to be in the best position to provide information on the case as required under Articles 6 and 11 of the EU Directive, based on recent changes to its role.** Taking such an approach would ensure that information was provided through a single contact point thus streamlining the process and reducing the burden on victims.

**215. At the same time, some flexibility in the system should exist to ensure that the authority best positioned to provide the information does so** (while avoiding many different organizations providing disparate information). For example, if the court determines the time and place of the trial, or is responsible for preparing the final judgment, it should be determined whether it is in the victim's best interests and more efficient for the administration if the court delivers the information directly or via the prosecution. Similarly, in the case of the release of the suspect or defendant, this may be a police, prosecutor or judicial decision, or the probation services may be responsible where an offender has been imprisoned. This latter approach is followed in England through the victim liaison service.

**216. Issues such as who is responsible for the information, how it is collected and what support mechanisms may be in place to assist victims' understanding of the information will need to be considered in more detail as the Government designs its information provision system.**

## Recommendation 18: on how information should be provided

**217. The CPC should envisage a minimum form of written information provision with respect to the case and proceedings.** Further implementing measures are also recommended on the provision of information through a range of media and in the most efficient and understandable manner, taking into account victims' comprehension difficulties. Where information is likely to be complex or where the victim may have difficulties coping with the information, support should be provided.

## Recommendation 19: on notification of the release of a suspect or offender

**218. The CPC should be amended to establish the right of the victim to be notified of the release of a suspect/offender and the circumstances in which it is exercisable.** Article 6 of the EU Directive establishes the possibility for the victim, upon request, to be notified of the release or escape of the detained or imprisoned person. This information should be available at least in cases where there is a danger to the victim or an identified risk of harm. Factors that should be taken into account include:

- The right is not limited to certain offences but is applicable to all situations where the suspect or offender is in pre-trial detention or imprisoned. To avoid having to amend the CPC if changes in sentencing rules occur, the CPC could be drafted broadly by referring to detention or imprisonment rather than to criminal offences where the notification right applies.
- The Directive provides for limiting the right to situations where there is a danger or an identified risk of harm. The CPC should be amended to cover at least these situations. However, flexibility in the system is recommended in order to cover situations where release could be highly traumatic for the victim but there is not necessarily an identified danger. This might be for example where a victim was stalked, in domestic violence cases, or sexual offences by someone known to the victim. The CPC could provide for notification in all specified circumstances ('the victim shall be notified, upon request where...') or the CPC could

be amended to provide for the possibility of notification at the discretion of the appropriate authority ('in circumstance x, y, z, the victim may be notified...'). This approach could reduce decisionmaking burdens since for certain offences there would be an automatic right to notification while for others a decision on risk would have to be made.

- The Directive emphasizes the importance of involving the victim in decisions affecting their life. This is particularly important with respect to notification of release. In many cases, the victim may not wish to be informed. The CPC should be amended to reflect that the wishes of the victim should be taken into account. Where the right to notification is established a wish to be or not be notified would ideally be binding on the authority except in exceptional circumstances (e.g. where a responsible authority becomes aware of a risk of harm to the victim and notification is necessary to protect them). The authority responsible for the decision to notify should take such a decision on an evidenced basis where there is a specifically identified risk – understanding that risk may change over time.
- The mechanism for notifying a victim should be carefully considered. For example, it can be harmful to a victim to simply receive a letter in the post saying that the person who raped them ten years ago will be released in a few weeks and will move back next door. While the CPC may not be the appropriate mechanism to establish rules on methods for informing the victim, it will be important to establish procedures which ensure that victims are informed in a sensitive manner and that support is available for the victim.
- It should be considered which authority is best placed to notify the victim and what mechanisms will be established to record the wishes of the victim. Depending on circumstances, the police, prosecution, judge or probation services may be in the best position. Also victim support service providers, NGOs or social welfare centers who are in contact with victims in the aftermath of crime might be appointed this task or at least may be involved where support may be necessary. Not only must the wishes of the victim be recorded but they must be known to the authority in advance of release. Moreover, experience has shown that this information can easily be lost where prisoners are transferred between prisons. A victim liaison service, as established in England may be an appropriate system in Serbia.

### 9.2.2 Achieving information collection, sharing and provision in practice

**219.** The above recommendations will support the implementation of the EU Directive with respect to information rights, but many aspects of the EU Directive will also require implementing measures. Serbia is in an early phase of developing its information processes in this field. As such, there is an important opportunity to achieve an information system which delivers fully for victims while being efficient, minimizing burdens on practitioners and better supporting the work of justice practitioners.

#### Recommendation 20: Review of the information provision system

**220.** A broad review should be carried out on how information on victims and relevant to victims are collected, shared and provided to victims from first complaint, through investigation, prosecution, trial and post-trial proceedings.

**221.** Within the remit of this analysis it is difficult to set out what precise mechanisms should be developed. However, a number of factors should be addressed to improve the system. In particular:

- The lack of co-ordination between authorities which can result in duplication of effort, gaps or contradictions in information.
- Geographical inequalities in provision of information as well as differences depending on the type of crime.
- Possibly inefficient systems for collecting then sharing information e.g. paper based only.
- Lack of knowledge and training on sensitive approaches to communicating with victims.
- Lack of variety in the way information is provided.
- Lack of clarity as to when information should be provided and by whom.

**222.** Any review of the system should ensure that the authority best placed to collect information, does so at the appropriate moment, and that the information can flow efficiently from one authority to the next to support their objectives and the provision of information to the victim. Where necessary, protocols for the sharing of information should be established and the information system should be viewed as a collective system where the needs and responsibilities of all authorities are taken into account at each stage of proceedings.

**223.** The review should also explore the precise role of specific information support offices in the police, prosecution and courts to maximize their benefits whilst ensuring staff are not overburdened and that all victims have access to necessary information.

#### Recommendation 21: use of information technologies

**224. IT Technologies should be considered, to provide information relevant to the victim online.** Examples of such a system already exist in the UK (trackmycrime) and other countries. Such a system ensures that the victim can access information whenever they need (subject to internet access) and that information can be quickly and easily updated by any authorized authority.

**225.** The system would support authorities by providing clear templates for inputting information and would not be limited on a geographical basis for either the authorities or victims.

**226.** The system could also be adapted so that victims' requests, information provided to the victim and any other relevant data can be recorded. In this way, an appropriate authority in contact with the victim knows what the victim has already been told and what concerns or risks may have been raised.

**227. Such a system can be a significant investment but it is anticipated that efficiency gains would outweigh initial set up costs as well as long term running costs.** Nevertheless, a full feasibility study and/or impact assessment would be necessary.

#### Recommendation 22: provision of information through a range of media

**228. It is recommended that a range of information options are available to practitioners** as this obligation is set out in the recitals which assist in the interpretation of legislation. Web based information can be an effective means of communicating and allows for video and audio information as well. Recommendation 13 provides further details on the development of a single site for such information.

**229. It is also recommended that guidance and training be provided to practitioners to support them in providing information orally.** This will be particularly important for victims with learning disabilities, reading, sight or hearing limitations and in case no information is provided online.

#### Recommendation 23: online information portal

**230. A single website or microsite should be developed to provide information on the rights of victims, how the justice system functions and what victims can expect, and links to authorities or support organizations.** There is a lack of awareness amongst the general population about victims' rights and this subsequently affects victims. Portals are commonly established across Europe by State and non-state actors (e.g. Sweden, England, European Commission, Infovictims) and are generally part of the wider e-justice agenda. These sites serve not only to provide rights based information but can also help victims to understand what they are going through and to ease their concerns about criminal proceedings.

#### Recommendation 24: simple and accessible language and specific needs

**231. Specific measures should be taken to develop written information in a simple and easily understood format in accordance with the EU Directive.** Basic guidance exists on preparing communications in a way which avoids use of technical language, long sentences or words or difficult sentence structures. Such guidance ensures effective implementation of legal obligations. General obligations should be established for officials to use simple language and guidance should be developed on using simple Serbian language to support officials in this objective.

### 9.3 Translation and interpretation

**232. The CPC contains extensive rights on translation and interpretation that go beyond the requirements of the EU Directive which limits such rights to specific situations. However, some legislative actions can be taken to ensure that all rights on translation and interpretation in the EU Directive feature in the CPC.** Furthermore, practical measures can ensure that victims of crime are provided with translation and interpretation in all phases of the proceedings. These recommendations add to the proposed legislative changes to facilitate that rights are put into practice. In particular this analysis looks at secondary legislation, binding practice guidelines, protocols, guidance documents, and training.

#### Recommendation 25: Legislative Changes on Translation and Interpretation

**233. Specific mention of the right to interpretation and translation for injured parties/victims would reduce the risk of some victims not accessing these rights.** Currently Article 11 of the CPC only mentions the right for "other persons participating in proceedings" to receive translation and interpretation.

**234. The CPC should be amended to establish the right to appeal a decision not to provide interpretation or translation.** Article 438 (5) of the CPC establishes the right to appeal where the injured party or private prosecutor was, contrary to his request, denied the right to the use of his own language at the trial and to follow the course of the trial in his own language. This is, however, an appeal against the judgment of the court.

**235. The CPC should be amended to clarify whether all victims have the right to translation and interpretation from first contact with authorities or whether any restrictions should be applied.**

**236. Further analysis is needed to determine: who can make the decision whether or not translation or interpretation should be provided; how the need for translation and interpretation is assessed; and how the decision to provide translation and interpretation is made.** The CPC appears silent on the authority responsible for deciding whether translation or interpretation must be provided to the victim or even if it must be provided irrespective of whether the victim requests it.

**237. Criteria for denying a request for interpretation and translation must be clear.** The right to appeal or to challenge is not an effective right without such legal certainty and transparency. Two options for criteria are suggested below:

- **Option A**

**238.** Add provisions to Article 11 CPC referring to The Language and Script Used in Proceedings on: who is responsible for determining the need for translation and interpretation; what the criteria are for this translation and interpretation; and the procedure of deciding and organizing translation and interpretation.

- **Option B**

**239.** Develop binding practice guidelines, protocols, guidance documents, and training on assessing the need of translation and interpretation, and the procedure to make the decision on whether or not translation and interpretation should be provided. Secondary legislation can provide information on the process of decision making on the provision of translation and interpretation to victims. Even where legislative changes are made, these implementation measures are likely to also be necessary.

### Recommendation 26: Improvement of Translation and Interpretation in Practice

**240. The government should explore possibilities for allowing victims to receive interpretation and translation during all phases of the trial irrespective of whether they are participating in proceedings.** While the EU Directive cautiously limits the rights to translation and interpretation depending on the victims' role in the criminal proceedings and to particular parts of the proceedings, it is important that victims receive interpretation even when they are not actively participating (as a party or witness) **for example to see how the testimony is dealt with, to understand further proceedings or to allow parents of a victim to understand the proceedings.** In order to accommodate the needs of victims in these particular cases efforts have been made in some countries through collaboration between judges and NGOs and victim support providers to allow informal interpretation during trials.

### Recommendation 27: Research on Translation

**241. Further research should be conducted to evaluate whether translation and interpretation is provided in practice and on a consistent basis.** Interviewees varied, with some saying there are not many cases that need translation while others said that translation and interpretation is provided primarily to offenders. Research could further unveil:

- What the real need is for translation and interpretation;

- Whether there is a large number of victims in need of translation and interpretation that are not identified;
- Whether translation and interpretation is provided in all stages of the criminal proceedings and for all essential documents;
- What the experiences of victims are that were provided translation or interpretation during criminal proceedings.

## 9.4 Protection of all victims

**242. Not all measures required by the EU Directive are currently prescribed in law and there are some difficulties in applying protection measures in practice.** Moreover, the system for assessing the need for specific measures for vulnerable victims is not sufficiently developed from the perspective of the EU Directive and in relation to its effective operation.

**243.** Amendments to the CPC and other legislation are necessary to ensure full alignment with the EU Directive. These should be accompanied by appropriate implementing measures such as protocols, practice directions, guidelines, and training. The following recommendations are not comprehensive but cover some of the key issues.

### Recommendation 28: measures for all victims and vulnerable victims

**244. The CPC must be amended to ensure that measures are available to all victims (injured parties) or vulnerable victims in accordance with the EU Directive.** The general approach to protection of victims in the justice system is to provide measures to especially vulnerable witnesses or protected witnesses. However, there should be an assessment of which measures should also apply to witnesses who are not victims.

### Recommendation 29: avoidance of contact between victim and defendant

**245. Rules relating to the circumstances in which avoidance should occur, when contact is strictly necessary, and safeguards for victims where contact must take place should be developed.**

**246. The system of confrontation of the victim with the defendant should be reviewed to determine whether the objectives of such a confrontation can be achieved through less harmful means.** Where such a confrontation is deemed essential, and no better alternative exists, explicit procedures and safeguards should be in place to protect both the physical integrity of the victim and also protect them from secondary victimization, intimidation and harassment.

**247.** A review of police, prosecution and court premises and procedures should examine:

- the extent of risk of a victim and defendant coming into contact with each other;
- the use of technical tools like video to avoid contact between victim and defendant;
- opportunities to adapt premises to facilitate the avoidance of contact;
- which procedures should be adopted to facilitate avoidance of contact (e.g. identifying victims who have a strong concern about contact, ensuring that victim and defendant are at premises at different times or are moved within premises at different times, escorting



the victim within premises if there is a risk they will come into contact with the defendant)?.

**248. Avoidance of contact within premises is not easily achieved, particularly where this may require expensive structural changes. A long term strategy should be developed to adapt premises in accordance with the lifespan and renovation requirements of buildings and to ensure that plans for new buildings or the rental of new buildings takes into account obligations on avoidance of contact.** As the EU Directive requires, new court buildings must be designed with separate waiting areas for victims. Such requirements should be included in the terms of reference of any contracts to build or acquire new court premises.

### Recommendation 30: interviews without delay

**249. The EU Directive requires that interviews with victims take place without unjustified delay. Since the CPC imposes similar obligations with respect to the defendant (e.g. Article 68), the CPC should similarly be amended with respect to victims.**

**250. As an alternative to amendments to the CPC, or in addition to such amendments, other bindings measures should be established which require the relevant authority to carry out an interview as soon as possible.** Appropriate guidance and protocols should also be developed to facilitate the implementation of such a requirement.

### Recommendation 31: minimization of interviews

**251. A basic requirement to minimize interviews should be included in the CPC with specific implementing measures setting out procedures for achieving this goal including through the co-ordination of interviews, the video or audio recording of interviews – and ensuring their admissibility as evidence.** However, it may be sufficient for the purposes of the EU Directive to adopt binding practice directions and practical measures. Nevertheless, this approach should be taken cautiously given the Commission and ECJ's preference for implementation through law.

**252. A review should be carried out with respect to the evidential admissibility of statements made by victims to the police.** Statements at this point can include important information which the victim may not recall at a later date (particularly if this happens months later). Moreover, for simple or straightforward cases, it may not be necessary for the prosecution to carry out a second interview. There are strong arguments for allowing first statements to be used as evidence, subject to appropriate safeguards.

### Recommendation 32: victim accompanied by person of choice

**253. The CPC should be amended to allow a victim to choose a person to accompany them during interviews.** Clear rules either in the CPC or in implementing measures should set out the circumstances in which an authority may deny the choice of the victim, and allow the victim to choose another person to accompany them. It should be considered what restrictions should be established to ensure proceedings are not prejudiced (e.g. specific information, guidance and rules for an accompanying a person, measures in the event of a breach of the rules, criteria for the exclusion of persons). While not

expressly required under the EU Directive, it is recommended that VSOs also be nominated by a victim to accompany them.

### Recommendation 33: limitation of medical exams

**254. In view of the reliance that practitioners place on the CPC to determine their responsibilities, the CPC should establish a basic obligation to limit medical examinations to the minimum necessary for the purposes of criminal proceedings.** Limitation of medical exams is an obligation under the EU Directive, but it is not clear whether this measure must be provided through legislation or whether practical measures alone are sufficient. Nevertheless, it is possible that certain measures to limit repetition of medical examinations (e.g. admissibility of evidence in court, presence of defense expert at time of medical exam) may need to be included in the CPC thus it should be amended. Detailed implementing rules can subsequently be prepared on how examinations should be limited (e.g. early determination of objectives of examination and needs, guidelines on procedures to be followed, co-ordination mechanisms).

### Recommendation 34: psychiatric examination of victims/witnesses

**255. Measures should be put in place to support those who may have difficulty presenting their testimony and assessment for mental capacity should be carried out only within prescribed circumstances by experts with the necessary educational background.** The CPC foresees the possibility of ordering a psychiatric examination of witnesses where there are doubts about their capacity. This may be necessary in some circumstances, but a range of risks exist where proper safeguards, rules and procedures are not in place. Care should be taken to differentiate between mental capacity, credibility, reliability and ability to convey information.

## 9.5 Protection of vulnerable victims

**256.** Improvements are required to ensure that mechanisms to identify vulnerable victims align with the EU Directive and that the protection measures for such victims are available to them.

### 9.5.1 Identification of vulnerable victims and their needs

**257.** The system for identifying vulnerable victims is both incomplete in its coverage of all victims, in terms of factors to be taken into account and in terms of obligations to carry out an assessment. Article 22 of the EU Directive is well recognized as being one of the more complex articles to implement. As such a number of States have carried out extensive assessments to determine the most appropriate method to implement the individual assessment.

### Recommendation 35: Individual Assessment

**258. A detailed review should be carried out to determine the most appropriate system for individual assessment for Serbia.** Given the complexities of introducing the individual assessment process and the need to take into account the specificities of the country's justice and law enforcement system, the review should examine practical measures to implement the system and appropriate amendments to the CPC.

## 9.5.2 Protection measures for vulnerable victims

**259. A number of protection measures in the CPC broadly correspond to parts of the EU Directive, but a number of requirements are missing** (e.g. there are no legal requirements to ensure vulnerable victims are interviewed in premises adapted for that purpose, that interviews are carried out by the same person or in the case of sexual violence, by a person of the same sex). In addition, other requirements do not fully align with the obligations as laid out in the EU Directive.

### Recommendation 36: measures to protect vulnerable victims

**260. Legally binding obligations should be imposed on authorities in line with the EU Directive whether through the CPC or through alternative means.** Implementing measures will also be essential to achieve full practical implementation.

**261. A review should explore what aspects of vulnerability can be appropriately addressed through training.** Article 23(2)(b) of the EU Directive, which requires that practitioners are appropriately trained, is too broad ranging for the CPC to cover all circumstances relevant to the needs of vulnerable victims. With respect to sexual violence cases, specialist training to increase knowledge on the impact of such crimes, on appropriate interview methodology, training to avoid stereotyping, appropriate questioning etc. could be developed. Similar training needs might be identified to address interviewing persons with disabilities. These special training modules should subsequently be incorporated into the curricula of practitioners coming into contact with vulnerable victims.

**262. The CPC should be adapted to ensure that protection measures (Article 23(3) of the EU Directive) are equally available to vulnerable or protected witnesses as well as vulnerable victims in light of individual assessment.**

## 9.6 Training

**263. Training obligations will need to be transposed in law and practice.** The EU Directive (Article 25) requires that Member States ensure that officials such as police officers and court staff receive training, that they request training for judges and prosecutors (clause 2), recommend training for lawyers (clause 3), and encourage initiatives enabling victim support services to receive training (clause 4).

**264.** The Serbian CPC does not contain any legislative texts related to training on victims' issues though it is understood that some specific laws (e.g. juvenile, family laws) have been developed and there have been training initiatives amongst different authorities.

**265.** Nevertheless, there are indications that training programs relevant to victims' needs, victims' treatment and, to a lesser extent, victims' rights are insufficiently incorporated into curricula, that training does not happen sufficiently regularly or with consistency, and that training is not compulsory and there is insufficient uptake. Training initiatives could also focus more on increasing awareness of the needs of victims and enabling practitioners to recognize victims and treat them in a respectful, professional and non-discriminatory manner as required under the EU Directive (Article 25 (5)).

### Recommendation 37: Legislative Changes on Training

**266. While the CPC could usefully be amended to establish some basic level of training obligations, this is not obligatory and could be addressed in guidelines, practice directions, secondary legislation and initiatives of the government.** Such measures would ensure that training for judges and prosecutors is requested, training for lawyers recommended and training initiatives enabling victim support services is encouraged.

**267. Additional training programs could be developed for other vulnerable victims using a similar approach of certification as that employed under the Law on juvenile criminal offenders and criminal protection of juveniles and the Family Law, which require a training certificate to work with children.** For example, practitioners could be required to have appropriate training in order to work on rape, domestic violence, or human trafficking cases. This approach is already used in other countries.

### Recommendation 38: Practical Changes on Training

**268. Increased focus on victims' issues in the basic training of different types of practitioners is needed.** The basic training provided to police, judges, prosecutors, court staff and lawyers seems to have little focus on victims of crime, their needs, nor how to deal with them in a respectful, professional and non-discriminatory manner. This lack of training of practitioners can cause secondary victimization which can have a strong impact on rehabilitation of victims and their trust in the justice system.

**269. Basic curricula of police, judges, prosecutors, lawyers and other practitioners should include training on both skills and knowledge of victims' needs and how to treat victims in a non-harmful, non-discriminatory and respectful manner.**

**270. Ongoing training for practitioners should embody a sustainable, continuous development of skills and knowledge on victims' issues.** This ongoing training has to be developed in a way that includes follow up and on-the-job practice and supervision to ensure sustainable capacity building.

**271. Training initiatives in both basic and ongoing training should be widened to cover different victims of crime as well as covering generic issues relevant to all victims.**

**272. Different styles of training which focus on developing and practicing skills should be incorporated into training schedules.**

**273. Training and capacity building initiatives should be developed where practitioners with different backgrounds and specializations come together, share experiences and learn about the needs of victims and how to treat them.** This can also contribute to a more efficient use of resources<sup>30</sup>.

**274. To develop sustainable long-term programs, training initiatives should be incorporated into a wider policy framework that aims at sustainably developing practitioners' capacity through follow-up and supervision instead of one-off trainings.**

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<sup>30</sup> <https://openknowledge.worldbank.org/handle/10986/21531>

## Recommendation 39: Research on Training

**275. A comprehensive training needs assessment should be conducted which identifies the needs of different practitioner groups for training on victims' issues.** This complements proposals in the Serbia Judicial Functional Review by the World Bank.

**276. Particular attention in research initiatives should be paid to evaluation of training and capacity building initiatives.** This evaluation should measure the impact on knowledge and skills of practitioners and also on victims' experiences with the services provided by these practitioners.

## **ANNEX I – SELECT ARTICLES OF EU DIRECTIVE 2012/29/EU**

### **Article 2 – Definitions**

1. For the purposes of this Directive the following definitions shall apply:

(a) ‘victim’ means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members 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;

(b) ‘family members’ means 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;

### **Article 3 - Right to understand and to be understood**

1. Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.

2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.

3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.

### **Article 4 - Right to receive information from the first contact with a competent authority**

1. Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:

(a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;

(b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;

(c) how and under what conditions they can obtain protection, including protection measures;

(d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;

(e) how and under what conditions they can access compensation;

(f) how and under what conditions they are entitled to interpretation and translation;

(g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;

(h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;

(i) the contact details for communications about their case;

(j) the available restorative justice services;

(k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.

2. The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

#### **Article 6 - Right to receive information about their case**

1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information:

(a) any decision not to proceed with or to end an investigation or not to prosecute the offender;

(b) the time and place of the trial, and the nature of the charges against the offender.

2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information:

(a) any final judgment in a trial;

(b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.

3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.

5. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.

6. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.

#### **Article 7 - Right to interpretation and translation**

1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge, at least during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.

2. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings.

3. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request, with translations of information essential to the exercise of their rights in criminal proceedings in a language that they understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.

4. Member States shall ensure that victims who are entitled to information about the time and place of the trial in accordance with Article 6(1)(b) and who do not understand the language of the competent authority, are provided with a translation of the information to which they are entitled, upon request.

5. Victims may submit a reasoned request to consider a document as essential. There shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling victims to actively participate in the criminal proceedings.

6. Notwithstanding paragraphs 1 and 3, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

7. Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law.

8. Interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation under this Article shall not unreasonably prolong the criminal proceedings.

#### **Article 8 - Right to access victim support services**

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.

3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.

4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.

5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

#### **Article 9 - Support from victim support services**



1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide:

- (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- (b) information about or direct referral to any relevant specialist support services in place;
- (c) emotional and, where available, psychological support;
- (d) advice relating to financial and practical issues arising from the crime;
- (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

2. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.

3. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide:

- (a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;
- (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, including trauma support and counselling.

#### **Article 18 - Right to protection**

Without prejudice to the rights of the defence, 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 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.

#### **Article 20 - Right to protection of victims during criminal investigations**

Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- (a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
- (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, unless a reasoned decision has been made to the contrary;
- (d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

## **Article 22 - Individual assessment of victims to identify specific protection needs**

1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

2. The individual assessment shall, in particular, take into account:

(a) the personal characteristics of the victim;

(b) the type or nature of the crime; and

(c) the circumstances of the crime.

3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.

4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.

5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.

7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

## **Article 23 - Right to protection of victims with specific protection needs during criminal proceedings**

1. Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in Article 22(1), may benefit from the measures provided for in paragraphs 2 and 3 of this Article. 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. The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 22(1):

(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 unless this is contrary to the good administration of justice;

(d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.

3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings:

(a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;

(b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;

(c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and

(d) measures allowing a hearing to take place without the presence of the public.

#### **Article 25 – Training of Practitioners**

1. 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 their contact with victims to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.

3. With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.

4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.

5. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.

## ANNEX II – METHODOLOGY

- 1. The first phase of the Analysis comprised desk research and a literature review.** The researchers carried out an analysis of the state of play in Serbia with respect to information provision, interpretation and translation, support, protection and training. A literature review was carried out of key studies, both published and unpublished.<sup>31</sup>
- 2. Semi-structured interviews were carried out with professionals from the law enforcement and judicial system.** These key informant semi-structured interviews provide a more in-depth analysis of victims' rights and services in Serbia.
- 3. The interview protocol followed the structure of the EU Directive and the content of its articles and recitals.** Every sub-section of the protocol focuses on one of the five areas of the EU Directive assessed in this project (information, translation and interpretation, support, protection, and training).
- 4. A purposive sampling procedure was followed identifying key-stakeholders that have extensive experience dealing with victims of crime.** Twelve key-stakeholders were selected for interviews, of which six had different roles in the public prosecution services, two worked as police officers, one worked as a judge, two worked for an NGO and one is a professor in law. Interviewees were provided with information on the goal of the research, the content of the interview and confidentiality measures taken.
- 5. A survey was developed, based on the literature review and results of the in-depth exploratory interviews.** This survey explored information provision, interpretation and translation, victim support and translation provided to victims of different types of crime. The survey focused both on identification/understanding of these issues by asking open and closed questions. The survey was distributed to around 80 victim support and international organizations providing support to victims in Serbia, identified by the Victimology Society of Serbia and through desk research.
- 6. Victim support services contacted consisted of both universal and specialist generalist organizations.** These stakeholders were identified and questioned through a survey in order to maximize the number of stakeholders that could be reached in a very short period of time. The survey did not intend to provide a representative sample of victim support initiatives in Serbia; rather it was developed to provide an overview of the situation.
- 7. The survey was translated into Serbian to increase the response rate of Serbian speaking respondents.** Descriptive statistical analyses were carried out on the quantitative data.
- 8. A thorough analysis of the qualitative and quantitative data provided by different stakeholders was carried out.** Qualitative data underwent a thematic analysis in order to identify the main themes elicited by the interviewees and respondents. Descriptive statistical analysis was carried out on the quantitative data. Triangulation was adopted in order combine qualitative and quantitative

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<sup>31</sup> Skulic M, Position of the victim of crime / injured party in Serbian criminal law – current status, needed and possible amendments, December 2015, OSCE; Väättäinen S., Needs assessment report of the witness/victims support status in the Serbian criminal justice system, August 2015, OSCE.

data in an enriching analysis that identifies challenges and good practices when dealing with victims of crime in Serbia.

**9. A multi-country analysis aims to describe a variety of victim support systems in different European countries.** The selection of the countries was based on the generally used classification of victim support systems (cfr. Report on Victim Support in Europe by the Fundamental Rights agencies) providing a select overview of different elements of these systems. Five countries were selected to represent five different systems of victim support namely Croatia, England, Finland, France, and The Netherlands. Furthermore different variables (e.g. region, population, geography, history of victim support, legal system) helped select five countries which best represent different elements of victim support systems and which unveil good practices or risks useful to inspire further developments in a universal Serbian victim support system.

**10. Desk research and interviews were carried out to analyze victim support systems in the five selected countries.** Reports, research findings and online resources were considered. Key stakeholder interviews were carried out with victim support experts in each country. These key stakeholders were selected through the Victim Support Europe network of victim support organizations. An iterative process of validation by victim support experts sought to increase the accuracy of the country analysis.

**11. A comparative analysis was carried out in order to provide an overview of the different victim support systems in these five countries, unveiling similarities and differences.**

**12. The preliminary findings of the report were presented and discussed at a multi-disciplinary workshop.** Different stakeholders were invited to this consultative process in order to get feedback and additional information to guide the finalization of the report. Government institutions, international agencies, European delegation and victim support organizations were provided with the full preliminary report ahead of time. The different elements of the report were discussed and evaluated by the stakeholders. Overall the stakeholders expressed their appreciation for the accuracy and in-depth nature of the report. The consultative process inspired minor additions and adaptations to the report.

## ANNEX III – COUNTRY REPORTS

### 1 COUNTRY ANALYSIS: CROATIA

#### 1.1 Croatia and Victims of Crime

1. **On 1 July 2013, Croatia became the 28th member of the EU after a decade of carrying out all the reforms needed to bring it into line with EU laws and standards.** The country is divided into 20 counties and the City of Zagreb, its capital and the largest city.

2. **The Croatian Criminal Procedure Code (CCPC) refers to victims of crime and injured parties.** The CCPC states that a victim of a criminal offence is ‘a person that suffered physical and mental effects from the criminal offence, material damage or substantial violation of fundamental rights and freedoms.’ An injured party is the victim that acts as a participating party in criminal proceedings. Indirect victims are also referred to consisting of a deceased victim’s spouse, a registered partner, people living under the same household, and children.<sup>32</sup>

3. **The CCPC makes a distinction between natural persons and legal persons, but both may be considered a victim (or in some cases, injured party).** In the latter case, the representative of a company or organization is regarded as the victim in criminal proceedings. Including legal persons in several of the rights gives the term ‘victim’ a broader definition than is officially required by the Victims’ Directive.<sup>33</sup>

#### 1.2 The legislative framework for victim support in Croatia

4. **The legislative framework for victim support in Croatia lies in different legislative instruments:** a) the Criminal Procedure Act (CPA) (Zakon o kaznenom postupku); b) the Courts Act (Zakon o sudovima); c) the Act on Financial Compensation of Damage to Victims of Criminal Offences (Zakon o novčanoj naknadi žrtvama kaznenih djela); d) Regulation on the internal organization of the Ministry of Justice (Uredba o unutarnjem ustrojstvu Ministarstva pravosuđa).<sup>34</sup>

#### 1.3 Political responsibility for victim support

5. **The Ministry of Justice has the leading role in coordinating support for victims and witnesses.** It has leading role in the institutionalization of victim and witness support system within the broader legal system. It leads inter-institutional cooperation and manages the strategic development of the system in Croatia. It also cooperates with national and international entities<sup>35</sup>.

6. **Other Ministries are involved in providing support to victims and witnesses.** The Ministry of Interior (Ministarstvo unutarnjih poslova) provides information to victims and intervenes upon request from the Independent Sector for Victim and Witness Support. The Ministry of Social Policy and Youth

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<sup>32</sup> IVOR - implementing Victim-Oriented Reform of the criminal justice system in the European Union, APAV (2016). (Available at: <http://www.apav.pt/ivor/images/ivor/PDFs/IVOR-Repot-WebVersion.pdf>)

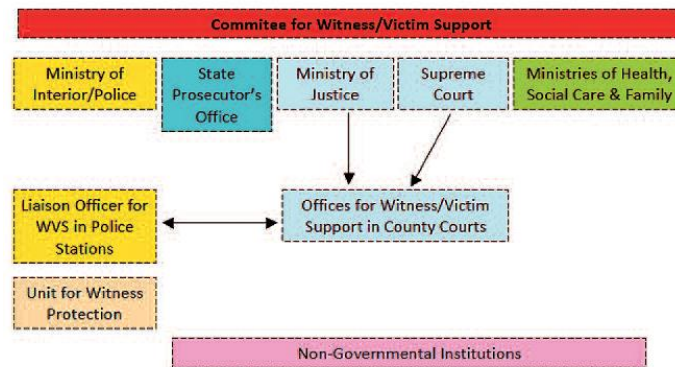
<sup>33</sup> *ibid.*

<sup>34</sup> Victim Support Services in the EU: An overview and assessment of victims’ rights in practice Croatia, Fundamental Rights Agency, (2014). (Available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/country-study-victim-support-services-hr.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/country-study-victim-support-services-hr.pdf))

<sup>35</sup> Interview with main representative from Bijeli Krug (HR)

(Ministarstvo socijalne politike i mladih) steps in through social welfare centers (centar za socijalnu skrb) and family centers (obiteljski centar). Social welfare centers provide information on the release of prisoners and provide accommodation, meals and one-time financial compensation to victims of domestic violence and of human-trafficking. Family centers provide advisory services and preventive therapeutic services.

#### 1.4 Organization of victim support



**7. The public victim support service is pivotal to victim support provision.** Funded through the state budget, the public victim support service in Croatia has two levels: an organizational unit within the Ministry of Justice (the Independent Sector for Victim and Witness Support) and special departments at county courts for victim and witness support.

**8. Croatia and the United Nations Development Program (UNDP) jointly took the initiative to set up victim support.** UNDP Country Offices in Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia started the Transitional Justice Programme in 2006 to strengthen training, sharing of information, research, and public information capacities of post-conflict institutions and to provide access to justice for past mistreatment.

**9. Croatia made victim and witness protection a priority area in the National Programme for the Protection and Promotion of Human Rights 2008–2011.** The new approach to victims of crime and witnesses was based on the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and other international documents. The result of the joint efforts was the 'Assistance in the Development of a Witness and Victim Support System' signed between UNDP and the Ministry of Justice. Croatia also included research on the witnesses and victims system.<sup>36</sup> The current national strategy describes the problems and proposes solutions and plans for the future.<sup>37</sup>

**10. Before the public victim support service, victim and witness support services were first provided in war crimes trials by the War Crimes Trial Witness and Participant Support Section within the Ministry of Justice.** This body dealt with legal and physical protection, psychiatric assistance and assistance at the location, the preparation of the departure and the organization of travel for witnesses and other participants in the main hearings in war crimes trials held in courts within and outside

<sup>36</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

<sup>37</sup> See The National Strategy Development victims and witness support in Croatia for the period 2016 to 2020. (Available at: [http://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html))

Croatia. Similarly, the new witness and victim services initially supported victims of serious war crimes offences before expanding to support victims in all criminal proceedings.

**11. The leading role is given to the Independent Sector for Victim and Witness Protection in the Ministry of Justice.** The system cooperates with many non-governmental organizations.<sup>38</sup>

**12. Witness and victim support services are established in county courts with the agreement of leaders of the courts or by the decision of the Ministry of justice.** This means victims support for courts in a single jurisdiction are administered by a single county court. These services function in some municipalities and county courts. Seven county courts have support offices for victims and witnesses. There are special departments for victim and witness support for all criminal offences.<sup>39</sup>

**13. The primary tasks of the Office for witness and Victim support are:**

- emotional support to witnesses and injured parties
- practical information to witnesses, injured parties and their family members
- standardize procedures / treatment of injured parties and witnesses
- Accompaniment of witnesses and victims in court. They welcome them in a separate waiting room before and after the testimony, provide information on the role of the Court and the court proceedings, and they refer victims.

**14. The public witness and victim services work with paid staff and volunteers.** In 2012 the offices had 14 full-time employees who rely on the help of over 200 trained volunteers, mostly law students.

**15. Non-governmental organizations are crucial to the provision of victim support since court focused services will miss many victims of crime.** Support is provided through a range of means including helplines (there are numerous free phone numbers), e-mail, and face-to-face contacts and through information provision on websites. In addition to delivering support, NGO's have an important role in the development of the system by influencing laws and public policies and raising public awareness about victims' issues.<sup>40</sup>

**16. In practice NGOs were the first to undertake significant steps in providing support during the war and after.** At that time no systematic support was organized on a generic level, even though healthcare and social welfare services, and some NGOs, provided some assistance to victims. Many organizations were established in the early 1990s to provide humanitarian assistance, psychological and social support, legal aid, and human rights protection to refugees, victims of war and members of minority groups.

## **1.5 Funding of victim support**

**17. In total, approximately \$1.45 million (2007–2013) have been provided.**<sup>41</sup> The major sources of funding for the project "Assistance in the Development of a Witness and Victim Support System"

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<sup>38</sup> See IVOR - implementing Victim-Oriented Reform of the criminal justice system in the European Union, APAV (2016).

<sup>39</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

<sup>40</sup> Interview with main representative from Victim Support service

<sup>41</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).



were UNDP, the Government of the Netherlands, the OSCE, MDG Achievement Fund, the US Government, and the Republic of Croatia.

**18. The Ministry of Justice enacted Court Rules of Procedure specifying the organization and functions of witness/ victims support offices in courts following amendments to the Courts Act.** Also heads of office and support officer were mentioned in by-laws governing the internal organization of each court, along with the corresponding budget lines for salaries and benefits.<sup>42</sup>

**19. Civil society receives funding for their work through project activities financed by the European Union, various foundations, trusts, local communities and funds provided by the state.** According to the report on the financing of projects and programs of civil society organizations from public sources in 2013 the following activities relevant to victims were funded: help for victims of domestic violence - £3,338,749.80 and education about human trafficking and assistance to victims of human trafficking - £610,011.72.<sup>43</sup> Funding at the national level for generic victim services was not found.

**20. Individual ministries provide financial resources, through tenders, to design programs to support witnesses and victims of crime that cannot be taken up by the state or public institutions.** Also local government provides funds for the work of organizations in their counties and the possible financing of projects through EU funds.<sup>44</sup>

**21. Current funding mechanisms risk compromising sustainable and systemic support provision to victims of crime.** Funding the majority of organizations through tenders results in a lack of continuous funding and a lack of structural assistance and support. This makes the continuity and long term sustainability of NGO led victim support much more difficult.<sup>45</sup>

## **1.6 Universal and specialized support**

**22. NGOs provide the greatest contribution with respect to victims of the war, of sexual violence, domestic violence, human trafficking and child victims.** They have an important role in organizing shelters for domestic abuse victims mainly directed at women and their children. Despite the focus on sexual violence it is still considered that there is a shortage of organizations in the field.<sup>46</sup>

**23. Recently more attention has been paid to victims of sexual violence during the armed conflict.** The 2015 Law on the rights of victims of sexual violence during armed aggression against the Republic of Croatia in the war strengthens rights, potential reparations and recognition of experienced trauma.<sup>47</sup>

## **1.7 Referral**

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<sup>42</sup> See The National Strategy Development victims and witness support in Croatia for the period 2016 to 2020, Croatian Government.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> See The National Strategy Development victims and witness support in Croatia for the period 2016 to 2020, Croatian Government.

<sup>46</sup> Interview with main representative from Bijeli Krug (HR)

<sup>47</sup> See Croatia passes law to compensate war rape victims, Reuters (2015). (Available at: <http://www.reuters.com/article/us-croatia-rape-idUSKBN0OE1M620150529>)

**24. Victims are referred by the police mainly to the Centre for Social Welfare in particular cases.**

The police regularly contact the Centre for Social Welfare, which is obligatory if children are present at the moment a crime occurs, or if the victim requests it. Placement in a safe house is organized by NGOs may also be arranged through the Centre for Social Welfare. According to the Rules of Procedure in cases of family violence, when it is necessary to urgently take care of a child or a minor who is a victim of domestic violence, or if police must interview a child or a minor, police must contact a Centre for Social Welfare.<sup>48</sup> The police do not contact the special offices for victim and witness support in county courts as this is linked to court proceedings.

**25. Generally, the police do not refer victims of crime to NGOs.** There are several NGOs which provide assistance and support to victims of domestic violence but police generally don't refer to them<sup>49</sup>, nor do they refer the victim to any support service for other types of crime.<sup>50</sup>

## **1.8 Information provision**

**26. The Croatian CPC specifies the nature of information that should be provided by the police on first contact.** The police must inform victims of their rights during the first action in which victims take part.<sup>51</sup> At this point, the police must notify the victim of all their rights and of their role in criminal proceeding as well as their right to compensation. The police must also notify victims of their rights as injured persons.

## **1.9 Quality standards**

**27. Independent Sector for Victim and Witness Support within the Ministry of Justice is responsible for quality assurance of their services.** This service is responsible for the overall coordination of victim support services, as well as training and quality assurance. They furthermore improve coordination and efficiency of victim support.<sup>52</sup>

**28. For public support services, quality standards were set during the development phase.** A high quality of services was sought by defining clear standards, procedures and rules of conduct for employees of the department for witness and victim support. Croatian legislation enacted in 2013 gives detailed criteria for the delivery of service, including on the rights of victims and on what information must be provided.<sup>53</sup> Indicators in Croatia include the level of satisfaction expressed by victims through surveys or simple questionnaires.<sup>54</sup> Witnesses could evaluate the work of the department and express their satisfaction or dissatisfaction with its work through questionnaires. Though the sample collected so far is too small to make statistically sound conclusions, preliminary results shows that witnesses and victims are satisfied with the service.

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<sup>48</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

<sup>49</sup> Ibid.

<sup>50</sup> See IVOR - implementing Victim-Oriented Reform of the criminal justice system in the European Union, APAV (2016).

<sup>51</sup> Articles 43 and 47 of the Croatia, Criminal Procedure Act (*Zakon o kaznenom postupku*) Official Gazette (*Narodne novine*) Nos. 152/08, 76/09, 80/11, 121/11, 91/12, 143/

<sup>52</sup> Croatia, Ministry of Justice (2012), Regulation on the internal organization of the Ministry of Justice, Art. 346, 5 March 2012.

<sup>53</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice, Fundamental Rights Agency, (2014).

<sup>54</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

**29. The quality of service of the victim support service (i.e. in courts) is currently not evaluated through a formalized systematic approach with key performance indicators.**

## **1.10 Access to Victim Support Organizations**

**30. Public services for victims and witnesses of crime are providing across a large part of the country.** In Croatia, services are both centralized within the Ministry of Justice, and regionalized through the courts.<sup>55</sup>

**31. Croatia has a 116006 Helpline for all victims of crime set up by UNDP and The Netherlands.**<sup>56</sup> The helpline provides information and advice to victims of crimes. Support is provided by 27 specially trained volunteers in the field of law and psychology in Croatian and English, weekdays from 8h to 20h. The total investment in the call center is 172,000 US dollars. The Ministry of Justice has provided premises in which the call center is located.

**32. The public services for victims and witnesses reach thousands of victims each year.** County courts support services have assisted 3,516 witnesses and victims made 3,588 phone calls (information and support). The Independent sector for victim and witness support within the Ministry of Justice sent 296 information letters to witnesses and victims, made 99 phone contacts, 29 email inquiries, 4 request for transport to courts, and 2 requests for physical protection and escort to court by the police<sup>57</sup>. Croatia as well complies with the Council of Europe's recommended ratio of one counselling center/service per 50,000 women.<sup>58</sup>

## **1.11 Volunteering and Victim Support**

**33. Croatia has seen an increase in volunteering both generally and in victim support services in the last few years.** Victim support services strongly rely on the work of volunteers.<sup>59</sup>

**34. Volunteers in the public victim support service in Croatia are mainly students.** The 'witness support offices' enlisted the help of a network of more than 200 trained volunteers. Many of them are students or have a professional background in law, psychology, social work or healthcare, and to a lesser extent, in politics, education, journalism or languages.<sup>60</sup> Support staff and volunteers do not give legal advice or carry out psychological counselling or psychotherapy.

## **1.12 Training**

**35. The majority of training on victims' issues seems to be organized by NGOs focusing on particular issues.** For instance the NGO Zagreb Pride has a training program for police on preventing hate crimes against LGBT persons. There does not seem to be systematic training for police officers regarding witnesses and victims in general or specific groups of victims.

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<sup>55</sup> Ibid.

<sup>56</sup> <http://www.hr.undp.org/content/croatia/en/home/presscenter/speeches/2013/07/16/launch-of-toll-free-hotline-for-crime-victims.html>; <http://www.pzs.hr/index.php/hr/>

<sup>57</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

<sup>58</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014).

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

**36. Some police officers are trained to deal with particular types of crime victims.** Police officers for misdemeanors and juvenile crime and crimes against juveniles and family go through several levels of training. First they take a three-month course and afterwards they attend seminars. The national plan for combatting human trafficking envisages specific training for police officers dealing with victims of human trafficking. These seminars are attended by police officers for illegal migration, officers of the criminal police dealing with organized crime, as well as all officers of the border police during the initial course for the border police.<sup>61</sup>

**37. Currently no systematic training seems to be organized for prosecutors on victims and witnesses of crime.** The judicial academy has organized training for prosecutors but there was little interest in the training.<sup>62</sup> Similarly, Judges are provided with little or no training on victims' issues. There is a one-day workshop on criminal procedural law where judges are taught about the procedural rights of victims. At the Judicial Academy (Pravosudna akademija) there is no other training on victims for judges.

**38. For public victim and witness support services training was organized by UNDP at the time the system was built.**<sup>63</sup> It included classic training and a study trip to Sweden. Currently, various forms of training are organized in cooperation with non-governmental organizations which deal with special groups of victims such as victims of sexual violence, domestic violence and victims of war. Workers in the departments for the organization and provision of support to witnesses and victims in the Ministry of Justice were trained in the legal and psychological aspects of acting as witness, in the treatment of different types of victims, and in the management of volunteers. Volunteers working in this department have to undergo two-day training.

**39. The Ministry of Justice provides very limited resources for training.** The Ministry of Justice uses the training organized by NGOs and other public institutions. The Ministry of Justice spent 529 euro in 2011 and 264 euro in 2012 for the training of volunteers<sup>64</sup>.

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<sup>61</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

<sup>62</sup> Ibid.

<sup>63</sup> Development of a Witness and Victim Support System Croatian experience: good practices and lessons learned, UNDP (2014). (Available at: <http://www.eurasia.undp.org/content/dam/rbec/docs/UNDP-CROATIA%20-%20Witness%20and%20Victim.pdf>)

<sup>64</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice Croatia, Fundamental Rights Agency, (2014).

## 2 COUNTRY ANALYSIS: ENGLAND

### 2.1 England

1. **England became a member of the EEG/EU in 1973. It is a country as part of the sovereign state of the United Kingdom, together with Northern-Ireland, Scotland and Wales.**

### 2.2 Legislative structure

2. **England's legal system is established through national and local legislation as well as through the common law system whereby judicial decisions are binding and establish legal precedent.** English criminal law derives its main principles from the common law and there has been no codification of laws as seen in civil law systems. England's criminal justice system is also based on an adversarial approach, rather than inquisitorial. This means that a defense lawyer and public prosecution represent the party's position whilst a judge and jury attempt to determine the truth of the case. This has had a strong impact on the treatment of victims in criminal proceedings and their legal status within the system.

### 2.3 Legislative framework for victim support

3. **There is no one single criminal code and therefore victims' rights are found in several laws.** The Domestic Violence, Crime and Victims Act 2004 establishes a number of rights for all victims and importantly requires that a Victims Code of Practice which sets out the services to be provided to a victim of criminal conduct. The Government has also announced it will bring in a Victims' law to increase victims' rights. A range of laws also exist focused on specific groups of victims.

4. **The "Code of practice for victims of crime" sets out the services that must be provided to victims of crime by organizations in England and Wales and minimum standards for these services.** It aims to ensure that victims are provided with timely, accurate information about their case at all stages of the criminal justice process. The most important parts of this code are summarized in easy understandable language for victims and available in Welsh as well.<sup>65</sup>

5. **The Youth Justice and Criminal Evidence Act, 1999, Part II deals with giving evidence and information in criminal proceedings.** This legislation is generally relied on for its definitions of vulnerable and intimidated witness. It also outlines special measures and protection measures which are available to vulnerable and intimidated witnesses in the court setting.

### 2.4 Organization of victim support

6. **In England, through the code of practice a wide range of public authorities are identified as being responsible for delivering services for victims.** In total 28 Authorities and Ministries are listed. Of these, some services such as the Police, Crown Prosecution Service and Witness service tend to have a greater role in supporting victims. Those services include obligations on practitioners in how they work with victims as well as development of different schemes such as documents outlining responsibilities both under statute and under policy and guidelines<sup>66</sup>, or the establishment of specific posts such as Family Liaison Officers (FLOs). FLOs are police officers specifically assigned to family members of murdered victims to support them during the criminal proceedings. For the purposes of

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<sup>65</sup> See Norman, J. (2012). Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial. National Report: United Kingdom. P. 5

<sup>66</sup> Ibid., p. 8

this report, however, the primary focus will be on victim support organizations providing emotional support.

**7. Set up over 40 years ago, Victim Support is the leading independent victims' charity in England and Wales.** It was registered as a charitable company in 1987 and set up a free national telephone helpline, *Supportline*, in 1998. Since 2008, Victim Support across England and Wales has been a single charity after the merger of 77 local charities that were previously joined in a federation. In 2013, the charity amended its articles of association and introduced volunteer representatives to its governance structure. In the year 2014-15 support was offered to 1.2 million people affected by crime in England and Wales by around 4.000 volunteers guided and supported by 1.300 staff members. Victim Support provides emotional and practical support to victims of crime free of charge.<sup>67</sup>

**8. For each division, a divisional advocate is chosen by volunteer advocates from each team or office.** The divisional advocates represent volunteers' views to the staff and management through regular meetings. The national advocates regularly meet with the Chair and the Chief Executive to exchange high-level information that affects the volunteers and service delivery. The divisional and national advocates also elect the active volunteer trustees on the Board.<sup>68</sup>

**9. The organization is led by the Chief Executive and Senior Management Team.** There is furthermore an audit committee, equality, diversity and inclusion committee, a finance committee, governance and nominations committee and a remuneration committee.<sup>69</sup>

**10. Recently elected Police and Crime Commissioners also play an important role in the provision of support to victims.** They commission victim services locally rather than having victim services commissioned nationally. Whilst there are advantages in taking a localized approach there are also concerns that as a result services will vary from area to area. There is also concern over the politicization of the commissioning process because it will be coordinated by elected officials. Victims of crimes such as trafficking, sexual and domestic violence, and victims bereaved by homicide will still be served by services that are commissioned nationally.<sup>70</sup>

**11. As a result of these developments and tendering procedures, Victim Support now only provides support to witnesses up until the case goes to court and then hands it over to the Witness Service once in court.** The Witness Service is delivered by Citizens Advice which provides free and independent support for both prosecution and defense witnesses in every criminal court in England and Wales. Their trained volunteers provide practical information about the process, as well as emotional support to help victims feel more confident when giving evidence. The Service is funded by the Government.

## **2.5 Funding of victim support**

**12. Since October 2014, budgets for victim support have been devolved from central government to local Police and Crime Commissioner's (PCC). These posts were set up by the government to commission police and crime services, taking it away from the chief constable in the**

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<sup>67</sup> See Victim Support website - About Us, Victim Support (2016). (Available at: <https://www.victimsupport.org.uk/more-us/about-us>)

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> See Norman, J. (2012). Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial. National Report: United Kingdom. p.30

**area.** PCC's are elected once every 4 years by the public. The Ministry of Justice now allocates its budget, using a formula, to all PCC's to spend as they wish on victim services. PCC's can award contracts to run victim services to any organization. This can be private or public and can also be allocated to police in-house services.<sup>71</sup>

**13. In addition to funding core services, each PCC has priorities and will fund specialist support ranging from domestic abuse or violence services, hate crime, vulnerable victims, fraud, child sexual abuse etc.** A tender is set out and victim support services have to apply for these funds.

**14.** Central Government still provides funding for a national Victims Information Line; a phone line to which victims can call with any question on victimization they have, however emotional support is no longer within its remit. The Ministry of Justice used to fund the helpline of the main victim support organization, but with the changes in allocating budgets created a new helpline with a more limited remit.<sup>72</sup> The Ministry of Justice also funds the national witness service.

**15.** Another example of an ongoing central contract is the homicide service with very specialized skills. Victim Support England executes this service and runs this with a central team and workers based at home supporting people locally.<sup>73</sup>

**16. Since 2014, the main source of funding for Victim Support England is from the Police and Crime Commissioners.** This used to be funding coming directly from the Ministry of Justice to provide core services in support for all victims of crime, whether a reported crime or not. In the last two years the budget has been allocated each year, meaning funding is only secured for a year.

**17. Victim Support also relies on donations to help fund projects and services for unmet needs, especially for the most vulnerable groups such as children and the elderly. Furthermore, Victim Support fundraises for its work.** However, one difficulty it experiences in getting donations is that people assume Victim Support is part of the police instead of an independent charity.<sup>74</sup>

**18. Beyond central government funding, the Ministry of Justice obtains additional funding directed specifically to victim support through two separate schemes.** The first – the Victims Surcharge – was established in 2007. When a court passes a sentence it must also order that the relevant surcharge is paid. The amount of the surcharge depends on the sentence and whether at the time the offence was committed the offender was an adult or under 18 years of age, or if the offender is an organization. The fine ranges from £15 to £120 with the surcharge being a set amount or based on a percentage of a fine's value. Revenue raised from the Victim Surcharge is used to fund victim services through the Victim and Witness General Fund.

**19. A second source of income is the Prisoners Earning Act.** By this act, prisoners who are undertaking paid work in the community and earning in excess of £20 a week will be subject to the imposition of a levy amounting to 40% of their remaining earnings. The fund raises around £1 million per year with the income being allocated since 2015 to Police and Crime Commissioners (having previously been allocated direct to Victim Support).

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<sup>71</sup> Interview with main representative from Victim Support England

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

**20. In the year 2014-15, Victim Support had a total of £53.1 million incoming resources.** Of this, £34.2 million come from the Ministry of Justice (the PCC's). £15 million was gained through grants and contracts, 1.2£ was raised via fundraising, £0.5 was came from the Prisoners' earning act and £0.3 from investments.<sup>75</sup>

**21. The current funding environment for victim support in England raises concerns about commercialization and lack of sustainability in provision of qualitative services.** While bidding and tendering of victim support services can have advantages, it also carries important risks. Longstanding services providers with a strongly developed expertise in the provision of victim support risk losing funding. Furthermore, tendering risks undermining a sustainable and continuous development of victim support services. It also risks devolving victim support services into a diverse landscape of changing services, which might not be in the victim's best interest.

**22. Some victim support services raise their concerns over the current funding mechanisms in England that risks overlooking smaller organizations with long-lasting experience and expertise.** Organizations that don't have the experience nor resources to dedicate to proposal writing might not be able to get sufficient funding to provide the services to victims that they have been providing for decades with more structural funding.<sup>76</sup>

## **2.6 Generic and specialized victim support**

**23. In England, there is a fairly mixed economy in terms of supporting victims of crime. Victim Support is the only national organization providing a generic service to victims of all types of crime.** There are other national organizations that focus on particular crime types, particularly domestic abuse, sexual violence and stalking. Specialist national organizations also provide services specifically for children and young people.

**24. The devolved funding and competitive bidding environment as explained above is leading to a far more mixed supply of services, with all the advantages and risks involved.** Some more generic national organizations such as Citizen's Advice are now moving into the area of providing support to victims. There are also a range of local organizations providing both generic and specialized services. For example, **Beyond Words, a UK based NGO, produced a guide on supporting victims aimed at people with learning disabilities.**<sup>77</sup>

## **2.7 Referral system**

**25. The 42 police forces used to have an arrangement where any victim of crime was offered support by the main support provider: Victim Support England.** The contact details of a victim are sent over to Victim Support via a secure police accredited server for the organization to follow up. However, due to changes in service providers, increasingly contact details are only sent when a victim

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<sup>75</sup> Annual report 2014, Victim Support England (2015).

<sup>76</sup> Interview with main representative from Victim Support England

<sup>77</sup> See Norman, J. (2012). Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial. National Report: United Kingdom. p. 88



requests this. Victim advocates fear that under this system people who need help will not get it because they won't be automatically referred and they may not refer themselves.<sup>78</sup>

**26. Other referral systems do exist between more specialized support organizations.** However, this is reliant on these individual organizations setting up referral systems with other organizations, usually at a local level. There is no general insight into these referral systems available.

**27. The Data Protection Act (1998) sets out rules and regulations on collection and holding of victims' information.** This information can only be disseminated according to the restrictions in this Act and the Freedom of Information Act, 2000. This does restrict, in some situations, which is able to access information about a victim, for example victims of sexual assault.<sup>79</sup>

## **2.8 Coordination mechanisms between organization, government and state actors**

**28. Due to the contracts PCC's can award to run victim service there is coordination between PCC's and victim support organizations.** Also, quarterly meetings between the Ministry of Justice and Victim Support are held to monitor the quality of the support they provide.

## **2.9 Information provision**

**29. The Victims Information Service provides information through their comprehensive website <https://www.victimsinformationsservice.org.uk/>.** By entering your postal code, you can find the nearest local support team, it provides general information on victimization, what happens after a crime (reporting, investigation, court, etc.), and what help to expect. It also has links to specialized support services and contains information on browsing safely online. Moreover, both the website of the CPS and Victim support provide extensive information for victims.

**30. England dedicates ample resources to online information provision on victimization to the wider public.** Through online websites and portals the wider public can get informed on their rights, the criminal proceedings and that can potentially happen after a crime. This information responds to the increasing use of online resources and makes information readily available in a simple and comprehensive manner to all internet users.

**31. In England, Track My Crime is available for victims. Track my crime is an online service for victims of crime and an innovative new way for the police to communicate with the public.** Local police authorities are signed up to this service. This service allows victims to track the progress of the investigation of their crime in the same way one might expect when accessing bank or mobile phone account online. It does not replace speaking to a police officer in person, but it gives victims choices about how and when to get information from the police. Track My Crime will send information to the website as soon as it is inputted into the police computer system and victims will be automatically alerted to updates on their case via a text or email notification. They can then access this information securely at a time that is convenient to them.<sup>80</sup>

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<sup>78</sup> Ibid., p. 29-30

<sup>79</sup> Ibid., p. 18

<sup>80</sup> Track my Crime website, Police UK. (Available at: <https://trackmycrime.police.uk/>)

## 2.10 Quality standards

**32. Annually, victim support quality standards are published and monitored in quarterly meetings between the Ministry of Justice and Victim Support and now also between PCCs and local service providers.** This includes both qualitative (for example satisfaction with provided services) and quantitative indicators (for example the number of victims assisted), measured through surveys or simple questionnaires.<sup>81</sup>

## 2.11 Service delivery requirements by the government

**33. There are advisory government standards about intended outcomes for victims, based on the Ministry of Justice “cope and recover” model.** Services funded by central government will have specific standards specified in contracts and funding agreements.

**34. This “cope and recover” model focusses on outcome.** Rather than measure success against factors such as how many victims have been contacted or referred for assessment, success will be based on how a service has supported a victim and the results of that support. To this end the Framework focuses on outcome based commissioning in being more effective in supporting victims, as measuring outputs on their own fails to take account of the wider benefits of a service to a victim.<sup>82</sup>

## 2.12 Access to victim support organizations

**35. Victim support organizations exist throughout England, but variations in service provision exist.** Victim support England has branches in all counties of England.

**36. Interpretation provided by Victim Support goes up to some 200 different languages through their ‘Language Line’ free of charge.**<sup>83</sup>

**37. Also, for victims with a disability, Victim Support uses a Needs Assessment Tool to identify specific needs and tailor its services.** The organization enables people with a disability to access its services. For example for people with a hearing disability, enhanced telephony and other communication systems, such as email, fax, SMS/text message are used. It also arranges to see victims in a location that is accessible to wheelchair users, where relevant.<sup>84</sup> **Accessibility is a priority of Victim Support’s strategy.** Victim Support continuously strives to make victim support services accessible to victims of crime.

## 2.13 Volunteering

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<sup>81</sup> See Norman, J. (2012). Protecting Victims’ Rights in the EU: the theory and practice of diversity of treatment during the criminal trial. National Report: United Kingdom.

<sup>82</sup> Pulse & Ministry of Justice (2014). VCSE Skills and Information Workshops – Victims’ Services Guide to Cope and Recover Outcomes

<sup>83</sup> See Norman, J. (2012). Protecting Victims’ Rights in the EU: the theory and practice of diversity of treatment during the criminal trial. National Report: United Kingdom. p. 80

<sup>84</sup> Ibid., p. 88

**38. Volunteers are selected and trained by Victim Support.** As a volunteer, you choose the way you want to be involved. Volunteers work with people affected by crime, raise funds and awareness, provide office support or share their professional skills.<sup>85</sup>

**39. Victim support strongly relies on and values the work of their volunteers.** In 2014 volunteers gave 945,709 hours of their time to work for Victim Support. The 945,709 hours volunteers gave to the charity were worth £14.9 million (based on the average hourly rate for full-time workers in 2014). This comprises: – £5,889,138 help for victims – £8,812,331 help for witnesses – £236,405 administration and governance.<sup>86</sup>

## 2.14 Training

**40. Volunteers who choose to directly support people affected by crime are offered comprehensive accredited training through a mix of workshops, eLearning and one-to-one discussions.** In this basic training, volunteers learn about types of crime and its effects on victims, the criminal justice system, how to access the kind of help and support people need, improving communication skills, equal opportunities, diversity and confidentiality, dealing with difficult and inappropriate behavior, how to claim compensation after a violent crime, the impact of crime on children and personal safety.

**41.** For volunteering opportunities that involve supporting victims, witnesses and their families, particularly comprehensive training is provided to make sure volunteers are equipped with the required skills and information.

**42.** All volunteers have access to ‘*Virtual Ashridge*’ – a range of eLearning resources to help in developing skills to deliver their role, as well as develop broader life skills. Also, there are more specialist training opportunities for volunteers who want to focus on supporting victims of sexual and domestic abuse, hate crime, restorative justice, and for work with families of homicide victims or vulnerable and intimidated witnesses.<sup>87</sup>

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<sup>85</sup> See website Get Involved, Victim Support. (Available at: <https://www.victimsupport.org.uk/get-involved/volunteer>)

<sup>86</sup> Annual report 2014, Victim Support England (2015).

<sup>87</sup> See website Get Involved, Victim Support. (Available at: <https://www.victimsupport.org.uk/get-involved/volunteer>)

### 3 COUNTRY ANALYSIS: FINLAND

#### 3.1 Legislative structure

1. **Legislative changes to support the implementation of the EU Directive entered into force mainly on 01.03.2016.** These legislative changes did not result in a single victims' act but were transposed through different laws and regulations. For example, victims of trafficking and children are handled as groups with specific needs.<sup>88</sup>The basis of victim protection lies in the constitutional duty according to which the public authorities shall guarantee the observance of basic rights and liberties and human rights

2. **Legislative changes have resulted in a number of improvements.** The obligation of the police to notify the victims about their rights during pre-trial investigation stage and trial was expanded. The victim is now also given information about available support services as early as possible. Victims of serious violent crimes or sexual offences are in certain cases entitled to be informed about the release of the prisoner or the suspect from the remand,<sup>89</sup> though this doesn't appear to completely conform to the EU Directive.

3. **Improving the position of victims in the criminal justice process is an important objective of the Finnish government.** Legislative changes transposing the EU Victims' Rights Directive also contributed to the Government Programme which has the objective of improving the position of victims in the criminal justice process.

#### 3.2 Legislative framework for victim support

4. **Although there is no specific legislation on victim support, the Criminal Investigations Act does mention victim support.** The pre-trial investigation authority, which in practice means the police, should ask the victim if they can forward the victims' contact information to victim support services. According to this article, the police should do so according to the personal circumstances of the victim, if the victim is in need of protection, or according to the nature of the crime. The first two situations were added due to the Directive.

5. **The Victim Policy Committee (2013-15), formulated proposals to further improve the position of victims of crime in practice.** The aim is to develop a national strategy to organize support services for victims of crime and to secure funding. In addition to general victim services, attention is paid to specialist support for vulnerable victims. The aim is to also clarify the roles of organizations and Ministries, strength synergies in support services and limit financial liabilities Several NGOs which support victims were included in the work of the Committee.<sup>90</sup>

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<sup>88</sup> Pirjatanniemi, E. Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial, National Report: Finland, p. 4

<sup>89</sup> See Crime Rights improve from March, Finland times (2016). (Available at: <http://www.finlandtimes.fi/national/2016/02/29/25495/Crime-victims%E2%80%99-rights-improve-from-March#sthash.P06cf5kc.dpuf> )

<sup>90</sup>See the national crime victimization policy, and support services for victims Project, The Ministry of Justice website, (2015). (Available at: <http://www.oikeusministerio.fi/fi/index/valmisteilla/kehittamishankkeita/kansallinenrikosuhripolitiikkajauhrientukipalvelut-hanke.html>)

**6. Finland's Working group on legislative changes relating to criminal proceedings (October 2014 – February 2015) was set up as a result of the EU Directive.** The group included Victim Support Finland as an NGO representative as it has strong expertise on victims' role and needs in practice in criminal proceedings. Victim Support Finland is the only general victim service in Finland with other NGOs focusing on specific groups of victims.

### **3.3 Political responsibility for victim support**

**7.** Government assistance to victims of crime is coordinated by the Ministry of Justice, the Ministry of Social Affairs and Health and the Ministry of the Interior together with the Police of Finland. Victims of crime are provided legal aid, compensation, social and health support and interpretation.

### **3.4 Organization of victim support**

**8. The Finnish victim support system was established in 1994 and is mainly based on the Swedish model.** There is one generic provider of victim support and several others providing more specific support. Whilst there is no umbrella network unifying these organizations several collaborations through different networks do exist.<sup>91</sup>

**9. The main victim support organization of Finland is *Rikosuhripäivystys (RIKU)*.** RIKU provides support to victims, those close to them, such as family members, friends, partners, husband/wives, and witnesses of crime as well as colleagues, civil servants or other professionals who might be in contact with victims.

**10. The organization of RIKU is based on a cooperation agreement by 5 NGOs and the Church and is nationally coordinated by The Finnish Association for Mental Health.** There are 7 regional offices and 29 service points of RIKU throughout the country, with their headquarters in Helsinki. The seven regional offices are all run by regional/local members/branches of one of the following organizations: the Finnish Association for Mental Health, the Finnish Federation of Settlement Houses, the Finnish Red Cross, the Mannerheim League and the Federation of Mother and Child Homes and Shelters. The service points are divided over these regional offices.<sup>92</sup>

**11. Support is available through telephone (via their national helpline and a legal advice helpline), face-to-face or e-support (social media and chat service).** The website provides basic information in different languages and online help. All services are available in Finnish, and often provided in English and Swedish. According to the EU Agency for Fundamental Rights (FRA) if needed, translation into other languages is **available** and provided.<sup>93</sup> In addition, a magazine (RIKU-lehti) is produced three times a year.

**12. RIKU provides general support services but also support to specific groups:** children, young and elderly people, persons with **disabilities**, immigrant and transnational/cross border victims.

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<sup>91</sup> Interview with main representative from RIKU

<sup>92</sup> See Riku website (Available at: <http://www.riku.fi/en/in+english/> and <http://www.riku.fi/fi/yhteystiedot/>)

<sup>93</sup> FRA (2014). Victims of crime in the EU: the extent and nature of support for victims, p.80. RIKU has translated general information about the organization and its functions into 19 languages.

**13. Different types of support are provided, namely: practical, legal, emotional, assistance to apply for compensation, information on victims' rights and information about the national criminal justice system.** Usually victims contact the organization through the hotline, e-mail, police referral or going personally to a local office of the organization, usually on appointment.<sup>94</sup>

### **3.5 Funding of victim support**

**14. Generic victim support in Finland is mainly funded by the State.** Since the Directive, the main generic support provider (RIKU) receives their funds mainly from the state. The increase in funding for generic victim support in the country has enabled an accelerated development of services offered by RIKU spread across the Finnish region.

**15. In addition to state and project funding, the victim support system is partly paid through payments from the Finnish slot machine association.** This association distributes funds gathered through gambling on slot machines to several social welfare initiatives, of which victim support is one. The total to be divided by this association is estimated at € 300.000.000 per year. For several specialized victim support services, this is their main funder as it used to be for RIKU.<sup>95</sup>

**16. Before the Directive came into force, the Finnish Slot machine association was RIKU's main funder.** However, the state considers it is now obliged to fund victim support services and the Ministry of justice is now the main funder for RIKU. The Slot machine association still provides funding to RIKU's basic work and development projects and remains their second biggest funder. In addition, the police administration and some local municipalities provide funding.<sup>96</sup>

**17. In addition to these funding sources, a new system of 'victim's fee' was recently introduced in 2015.** The system will be operational once IT systems have been reviewed and updated. 'Victims Fees' are an administrative fee paid by convicted persons in cases where the maximum sentence of the crime could be imprisonment (even if the actual sentence turns out to be a fine). In practice, this means that either €40 or €80 (depending on the severity of the crime) is added to the actual fine to be paid by the offender. The Ministry of Justice coordinates the distribution of the funds to victim support services. Traffic violations are in this regard the main provider for revenues. In Finland, total annual revenue is expected to be € 5,000,000 after administrative costs have been deducted.<sup>97</sup>

**18. Other NGOs do not, however, fall under the responsibility of the state and are therefore dependent on, amongst others, project funding which creates continuity of service issues.**<sup>98</sup>

### **3.6 Generic and specialized victim support**

**19. Generic support is mainly provided through Rikosuhripäivystys (RIKU).** RIKU is the main provider of victim support in Finland.

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<sup>94</sup> Interview with main representative from RIKU

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014). p. 62

<sup>98</sup> Pirjatanniemi, E. Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial, National Report: Finland, p. 20

**20. There are several organizations specialized in a certain aspect of victimization or a certain vulnerable group.** These provide more specialized support according to the specific needs of these groups of victims. Examples are: the Multicultural women’s association, the Finnish association for mental health with its crisis centers and a portal for early intervention and crisis support, the Rape crisis center, the organization for mediation in criminal and civil cases etc.<sup>99</sup> Shelters are mainly provided by members of the Federation of Mother and Child Homes and Shelters. Some municipalities have safety shelters of their own.<sup>100</sup>

### **3.7 Referral system**

**21. In Finland, police and victim support cooperate to some extent in the exchange of data.** The police are now bound by article 10 of the criminal investigations act to ask a victim whether they are allowed to refer the victim’s contact details (name, phone number and e-mail) to victim support organizations. In practice, this mostly comes down to a referral to RIKU as there is a mutual agreement between the two parties to do so. RIKU can refer victims to the right specialist support organization where needed. However, as only 30% of the victims referred to RIKU are referred by the police, there is room for development.<sup>101</sup>

**22. Currently, there is no coordinated way of referring victims to support organizations with the exception of the police system.**<sup>102</sup> Some victims are referred to victim support services via health care and social services, though not on a systemic basis. However, a new cooperation system has been developed with clearly identified tasks and with an efficient monitoring mechanism. This should further the development of systemic referral.<sup>103</sup>

### **3.8 Coordination mechanisms between organizations, government and state actors**

**23. There are no co-ordination mechanisms or guiding bodies on victim support in general.** However, through the Victim Policy Committee (2013-15) and the Working group on legislative changes (October 2014 – February 2015) collaboration between state actors and NGOs (RIKU in particular) has improved.<sup>104</sup> Moreover, RIKU has a representative of the Ministry of Justice on their National Board.<sup>105</sup>

**24. RIKU, as an organization has strong ties with other organizations in civil society and state institutions such as** The Federation of Mother and Child Homes and Shelters, The Finnish Association for Mental Health, Mannerheim League of Child Welfare. Through projects and in daily practices RIKU also works in good collaboration with other organizations and institutions in order to provide a good service to victims of crime.<sup>106</sup>

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<sup>99</sup> RIKU powerpoint presentation

<sup>100</sup> Pirjatanniemi, E. Protecting Victims’ Rights in the EU: the theory and practice of diversity of treatment during the criminal trial, National Report: Finland, p. 20

<sup>101</sup> Ibid., p.18

<sup>102</sup> Interview with main representative from RIKU

<sup>103</sup> Ibid., p. 19

<sup>104</sup> Interview with main representative from RIKU

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

### 3.9 Information provision

25. **Information on victim support in general is mainly provided by the police on first contact with victims.** They provide brochures available in multiple languages and are also online available.

26. **RIKU also provides a comprehensive overview of information on victims' issues and victims' rights through its website.** This includes information contacting RIKU or other organizations and a video explanation of the criminal justice system and the role of the victim.<sup>107</sup>

### 3.10 Quality standards

27. **The government does not formulate official standards or requirements in order to be registered as a victim support organization**<sup>108</sup> though according to the FRA report (2014), Finland has formally adopted key performance indicators to assess quality.

28. **RIKU evaluates its own services through self-evaluation by victim support workers and customer feedback.**

### 3.11 Service delivery requirements by the government

29. **The government of Finland has no specific service delivery requirements for victim support organizations.** However, RIKU has to follow annual plans and indicators as well as its yearly budget. Moreover, the Ministry of Justice stays updated on the organization as it has a representative on the Board.<sup>109</sup>

### 3.12 Access to victim support organizations

30. **RIKU feels that in general there is good access to services due to the current spread of offices of not only RIKU but also other organizations.** However, it does have some concerns about the low number of victims accessing services in remote areas.<sup>110</sup> Part of the difficulties of reaching remote communities may be resolved through the large efforts of RIKU to provide victim support through helpline or online services. For example, an online chat tool reaches many young people and adults who are victims of crime.<sup>111</sup>

### 3.13 Sufficiency of the support provided

31. **In 2015, RIKU had approximately 36 000 contacts and 2590 people received personal longer-term support.** Most of the clients were victims of different violent crimes and over 80% of all clients were women. For example, 33% of the clients were victim of intimate partner violence and domestic violence, 16% were victim of sexual violence (adults and children) and 11% were victim of harassment and emotional abuse. There were around 413,000 reported crimes in Finland in 2015 which means that the 36,000 contacts represent just under 9% of those crimes. The proportion will also be much

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<sup>107</sup> See Riku website, Riku. (Available at: <http://www.riku.fi/en/in+english/>)

<sup>108</sup> Interview with main representative from RIKU

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Interview with main representative from RIKU



lower when taking into account unreported crime figures. However, these contacts do not take into account support provided by other organizations.

### 3.14 Organizational structure

**32. The Finnish Association for mental health is the legal entity for the national part of RIKU. RIKU's Management Team consists of an executive director, a development director and seven regional managers.** Also, a National Board is in place. Members are representatives from the founding organizations as well as the Ministry of Justice and expert members from National Police Board and from the Ministry of Social Affairs and Health.

### 3.15 Volunteering

**33. Victim support organizations in Finland rely strongly on volunteers (with a ratio of around 6 volunteers to one paid staff member).** According to the FRA most of the organizations providing support to victims are partly dependent on volunteers who are mainly students with a specific background for example in law or psychology.<sup>112</sup>

**34. RIKU, the main victim support provider in Finland works with paid staff and volunteers.** RIKU consists of around 50 permanently paid staff (of which some are part-time appointed), over 300 trained volunteers and an additional 25 voluntary lawyers for the Legal Advice Help Line. RIKU's basic volunteers do not need to have a specific professional background with the exception of the Legal Advice Help Line.<sup>113</sup>

**35. Volunteers are protected through security measures when dealing with victims of crime.** When in contact with clients, several security measures are taken, such as the client only knowing the first name of the volunteer, clients do not have volunteers' phone numbers and meetings are arranged at the office or other suitable places, never at anybody's home (with an exception for shelters). Usually the support lasts until the criminal process is over, varying from a few days to several years, according to clients' needs.<sup>114</sup>

### 3.16 Training

**36. Volunteers in RIKU receive training to provide victim support.** When selected, volunteers take part in the basic training course and advance courses consisting of around 70 hours. Volunteers remain supported and guided by professionals and annually follow additional training. Volunteers who give legal phone counselling must have a law degree in addition to some experience in criminal cases.<sup>115</sup>

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<sup>112</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014). P. 67

<sup>113</sup> RIKU PowerPoint presentation

<sup>114</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014). p. 67

<sup>115</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014). p. 80

## 4 COUNTRY ANALYSIS: FRANCE

### 4.1 France and Victims of Crime

1. **France is a founding and leader member of the European Union.**<sup>116</sup> France is divided into 18 administrative regions: 13 regions in metropolitan France, and five located overseas. The regions are further subdivided into 101 departments.

2. **In France, victims of crime can be a “partie civile” (civil party) within criminal proceedings.** Partie civile is the victim’s way of attaching to the case in order to obtain compensation. As a ‘partie civile’ you have the right to be informed on the case, provide additional evidence, testify in court and contest certain court decisions. A ‘partie civile’ needs the assistance of a lawyer. As a ‘partie civile’ you can be present throughout the proceedings.<sup>117</sup>

### 4.2 The legislative framework for victim support in France

3. **In France different laws and regulations have progressively facilitated the development of support for crime victims over the last thirty years.** In the early days, legislation appeared to focus on matters of financial compensation (1977, year of creation of the Crime Victim Compensation Commission). Regulations were gradually introduced on other aspects of the victims’ situation, particularly their rights (a paper on the rights and responsibilities of crime victims was published in April 2002).

4. **Victims’ rights provided for in the French legislation are also provided through the French criminal procedural code and supported by circulars** encouraging courts to adopt specific practices when dealing with vulnerable victims.<sup>118</sup> The French Criminal law has already gone a long way to establishing all the rights included in the EU Directive. Victims of crime benefit from a consolidated status within French criminal and civil law.

### 4.3 Political responsibility for victim support

5. **Victims’ rights are a policy priority for the French Ministry of Justice.** The Ministry of Justice states that “the consideration for victims of criminal offences is a key element of the criminal policy”.

6. **France was one of the first European Member states to develop victim support.**<sup>119</sup> Generic victim support was established in 1986.

7. **Formally, there is no Ministry that leads the coordination of victim support services, but in practice, the Ministry of Justice and Ministry of Interior are the key players.** Both are represented within the National Council on Victim Support (Conseil National d’Aide aux Victimes - CNAV).

8. **The National Victim Support Council (CNAV) has an important role in ensuring good victims support to victims of crime in France.** The CNAV or Service for Access to the Law, Justice and City

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<sup>116</sup> See France, Europe official Site (Available at: [http://europa.eu/about-eu/countries/member-countries/france/index\\_en.htm](http://europa.eu/about-eu/countries/member-countries/france/index_en.htm))

<sup>117</sup> See EVVI (Evaluation of Victims), Ministry of Justice France (2015). (Available at: [http://www.justice.gouv.fr/publication/evvi\\_guide\\_en.pdf](http://www.justice.gouv.fr/publication/evvi_guide_en.pdf))

<sup>118</sup> See France, Ministry of Justice (2005), (Available at: [www.justice.gouv.fr/bulletin-officiel/98-04-dacg-c.pdf](http://www.justice.gouv.fr/bulletin-officiel/98-04-dacg-c.pdf))

<sup>119</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014).

Policy (SADJPV), a Ministry of Justice department is in charge of establishing general policy, coordinating operations and providing support to the legal bodies and planning legal action for victims in collaboration with the Office of Criminal Affairs and Justice through the Office for Victim Support and Association policy (BAVPA). The Ministry of Justice chairs the Council. The CNAV was set up in 1999 and is in charge of coordinating government action with other non-governmental bodies to ensure and strengthen the rights of victims in criminal proceedings.

**9. CNAV, an inter-ministerial cell, has representatives from various ministries and universities, experts, representatives from INAVEM and other associations.** Elected officers of CNAV assess victim support projects and formulate proposals for improvements, guarantee research and documenting of victim support, and organize coordination between the government and the association involved in the projects.

**10. In 2015 France has again appointed a State secretary for victims.** Her remit is to meet the needs of victims (physical injuries, psychological, relatives ...) of terrorist attacks and collective accidents, such as industrial accidents, natural disasters, plane crashes. It is the duty of the Secretary of State to ensure the victims are accompanied and supported as quickly and as well as possible for the victims. The aim is to make society feel protected in these situations. The State secretary for victims looks to improve information, support, compensation, and the statute of victims.

#### **4.4 Organization of victim support**

**11. The French Victim Support and Mediation Institute (INAVEM) is the leading support organization assisting all victims of crime.** It is a federation constituted of 130 victims' associations spread across the whole of France. INAVEM was created in 1986 and established as a federation in June 2004. The Federation has a long history and has built up an expertise as the national representing body for victim support. INAVEM focuses on strong collaboration with numerous operational, financial and international partners.

**12. In a 2012 report, the Court of Auditors defined the NGO network as the cornerstone element of public policy of victim support<sup>120</sup>.** Governmental partners regard INAVEM as a primary partner in victim support and development of victim support policy and legislation<sup>121</sup>.

**13. The purpose of the Federation is to promote and develop support and assistance to victims, mediation practices and other measures contributing to improve the recognition of victims.** The main objectives of INAVEM are: 1) Defining and evaluating victim assistance; 2) Coordination and support to organizations supporting victims; 3) Information and education of professionals and the public to help the victims.<sup>122</sup>

**14. INAVEM seeks to define and evaluate victim support missions; coordinate and support victim support associations, especially through its training body; raise awareness among professionals and the public concerning victim support and information.** INAVEM aims to ensure equality in quality and proximity to victim support services in the whole French territory; Facilitate and promote

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<sup>120</sup> See 44 [France,] Cour des Comptes (2012), 'La politique d'aide aux victimes d'infractions pénales', in : Rapport public annuel 2012. (Available at : [www.ccomptes.fr/Publications/Publications/Rapport-public-annuel-2012](http://www.ccomptes.fr/Publications/Publications/Rapport-public-annuel-2012))

<sup>121</sup> Speech Juliette Méadel, Colloque Anniversaire INAVEM (2016)

<sup>122</sup> See INAVEM website, INAVEM. (Available at: <http://www.inavem.org/index.php/homepage/espace-grand-public> )

communication and coordination between victim support associations; Promote local initiatives to help victims and assist local associations to enable them to better fulfil their missions; Provide multidisciplinary training of stakeholders victim associations and any organization or service dealing with victims; Develop research and studies in connection with the subject of the Federation; Propose any legislative or regulatory changes to improve the rights of victims; Inform the public, public authorities and any organization concerned with the purpose and actions of the Federation, and establish partnerships with all professional sectors involved; Representing Victims associations at national, European and international levels; Promote the work, reflections and international exchanges in the fields of action of the Federation; Ensure the respect and implementation of the agreements, conventions and other national, European and international instruments on the rights of victims.<sup>123</sup>

**15. The government supported the setting-up of a network of NGO-run Offices for Victim Support (Bureau d'Aide aux Victimes - BAV) within the court system.**<sup>124</sup> 130 BAVs are part of and supported by the INAVEM network. These associations offer a range of services to victims of crime covering 1) Counselling support; 2) Information on e.g. the operation of justice, procedures, remedies and compensation for victims; 3) Psychological support; 4) Referral to appropriate organizations such as the Courts, Police, Lawyers, Doctors, Social Workers, Psychologists; 5) Mediation.

**16. Houses of Justice and Law (Maisons de Justice et du Droit)**<sup>125</sup> were created in France with the aim of bringing justice closer to citizens. They are under the authority of the prosecutor and the president of the court where they are located. These institutions promote collaboration between judges, elected officials, and police. The Houses of Justice support good practices for victim and witness support officers, social workers and NGOs whilst contributing to the prevention of crime and protection of victims. They provide information on victims' rights and services are confidential and free of charge. Legal advice is provided by professionals and they also operate a thematic hotline. Currently, there are 139 houses of justice and law across the country.<sup>126</sup>

**17. At the request of the President of the Republic and in coordination with all the ministries, the inter-ministerial crisis center for victim support (CIAV) was established.** This structure was created in the wake of the January 2015 attacks in Paris and was activated for the first time during the November 2015 attacks. The structure includes the Ministry for foreign affairs and international development (MAEDI), the Ministry of Health which works with the Red Cross, the Ministries of Interior and Justice, the Institution for preparedness and response to health emergencies (EPRUS), the emergency medico-psychological unit (WAC) and victims' associations. It provides personalized support to victims and families of terrorism.<sup>127</sup>

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<sup>123</sup> See INAVEM website, INAVEM. (Available at: <http://www.inavem.org/index.php/homepage/espace-grand-public> )

<sup>124</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency, (2014).

<sup>125</sup> See Que sont les Maisons de justice et du droit?, Vie Publique website. (Available at : <http://www.vie-publique.fr/decouverte-institutions/justice/fonctionnement/modes-alternatifs/que-sont-maisons-justice-du-droit.html>)

<sup>126</sup> See Que sont les Maisons de justice et du droit?, Vie Publique website. (Available at : <http://www.vie-publique.fr/decouverte-institutions/justice/fonctionnement/modes-alternatifs/que-sont-maisons-justice-du-droit.html>)

<sup>127</sup> See CIAV, La France (Available at: <http://www.ambafrance-ne.org/Cellule-interministerielle-d-aide-aux-victimes-CIAV-3268> )

**18. The strongly established coordination between French ministries and victim support organizations facilitates good collaboration in times of mass victimization or disasters.**<sup>128</sup> The established collaboration between ministries and civil society has positively influenced the way and time in which victims can be supported.

**19. France has well-established victim support services that are strongly supported by the government yet exist in an NGO structure.** The investments of the French government in victim support services create a support system that is nationally organized whilst run through local organizations. The national coordination fosters continuously improving high quality service provision for victims in different regions.

#### **4.5 Funding of victim support**

**20. The Justice department's budget for victim support has been significantly increased in the last four years.** The annual budget for victim support in 2016 amounts to 20 Million euros (almost double the 2012 budget). However, between 2007 – 2012 the budget was significantly decreased which strongly impacted quality and locations where support was provided.

**21. For the Minister of Justice, the budget will implement its goals of modernization of the judiciary.** "The goal is to ensure that justice is closer to the citizens, more efficient, both on time but also on alternative methods of decision, that is to say, including mediation and conciliation and that justice is also more protective ". This strong financial commitment also enables the establishment of a strong system of country-wide victim support services.

**22. The cost of supporting victims through a coordinated nation-wide NGO-system is relatively low.** On average 1 770 victims are supported annually by each Bureaux Aide Aux Victimes (BAV) with more than 250 000 people supported each year by these associations. As such the estimated 'cost per victim' is as low as 156 euros which is much lower than equivalent service provision in the private sector. This demonstrates the advantages of entrusting the public service mission of helping victims to social bodies and the world associative.<sup>129</sup> In 2014, 330000 victims were supported.<sup>130</sup>

**23. The Bureaux Aide Aux Victimes (BAV) receive most of their funding from the government.** 66% of organizations responding to the survey say they are mainly financed by the State and 34% report being further subsidized by local and regional authorities. This demonstrates the dependence of associations on public funding. The share of income from business services and sales services remains marginal although it often contributes to reducing financial risks.<sup>131</sup>

**24. Specialized victim support services are also supported through government funding. For example, 14.500.000 euros was allocated to actions in support of women who are victims of violence**

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<sup>128</sup> See INAVEM website, INAVEM. (Available at: <http://www.inavem.org/index.php/homepage/espace-grand-public> )

<sup>129</sup> See Sur le financement des associations d'aide aux victimes et la gouvernance de la politique nationale d'aide aux victimes, Rapport au Premier ministre et à la ministre de la Justice (2013). (Available at: [http://www.justice.gouv.fr/include\\_htm/reformepenale\\_rapport\\_aide\\_aux\\_victimes\\_26\\_juillet\\_2013\\_optimise.pdf](http://www.justice.gouv.fr/include_htm/reformepenale_rapport_aide_aux_victimes_26_juillet_2013_optimise.pdf) )

<sup>130</sup> See INAVEM website, INAVEM. (Available at: <http://www.inavem.org/index.php/homepage/espace-grand-public> )

<sup>131</sup> *ibid.*

allocated by the Ministry of Women's Rights (source: indication from the Ministry itself) with a further 2.951.000 euros allocated to domestic violence issues.<sup>132</sup>

**25. Compensation paid is primarily paid through the main compensation fund for victims of infractions** (Fonds de Garantie des Victimes d'Actes de Terrorisme et d'autres infractions (FGTI)). Funds are obtained through a contribution from insurance contracts, claims against persons convicted of a crime, and earnings from financial investments it makes. The levy on insurance contracts ranges from €0 to €6.50.<sup>133</sup>

#### **4.6 Universal and specialized support**

**26. Victim support organizations in France are mainly universal, although specialized services exist.** In France the majority of victim support organizations target all victims of crime. However, many also offer specialized services as they have specialized legal and psychological personnel. France also has several specialized structures for particular categories of victims such as child victims, women, victims of trafficking in human beings, victims of collective accidents, etc.)<sup>134</sup>.

#### **4.7 Referral**

**27. Victims receive contact information from police on nearby victim support organizations but are not automatically referred to them.** The information is provided in annex of the receipt of the complaint, via verbal communication or through NGO leaflets. Usually, the victim is left to make their own contacts with victim support NGOs.<sup>135</sup>

**28. In the case of a vulnerable victim, police may immediately refer the victim to victim support or make an appointment.** This happens in particular where the NGO or social worker is present in the police station/gendarmerie unit. Sometimes social workers or psychologists (in police and/or gendarmerie) contact the victim directly if she is identified as particularly vulnerable (or hesitating to file a complaint) to offer support. This occurs where the support worker has access to internal records of complaints and is in touch with officers.<sup>136</sup> In addition, the Prosecutor may mandate a victim support NGO to meet with the victim and offer support (which the victim may decline).<sup>137</sup>

**29. Victims of certain types of crime can also be referred to specialized organizations for victims of crime.** These referrals are made by different governmental services and also by generic victim support organizations

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<sup>132</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice France, Fundamental Rights Agency, (2014). (Available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/country-study-victim-support-services-fr\\_0.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/country-study-victim-support-services-fr_0.pdf) )

<sup>133</sup> See Code des Assurances, Section I : Indemnisation des victimes des actes de terrorisme et d'autres infractions. (Available at :

<https://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000019113080&cidTexte=LEGITEXT000006073984>)

<sup>134</sup> See Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial Comparative Report, Centre for European Constitutional Law, 2014.

<sup>135</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice France, Fundamental Rights Agency, (2014).

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

## 4.8 Coordination mechanisms between organization, government and state actors

30. A range of co-ordination mechanisms exist in France. A number have been mentioned above but key mechanisms include:

- **The National Victim Support Council (CNAV)** has an important role in coordination. The national support council (cfr. Supra) brings together different ministries and civil society on victim support policy;
- **The houses of justice** which encourage partnerships between judges, elected officials, police Good practices for victim and witness support officers, social workers and NGOs; and
- **The CIAV** which is an important coordinating entity in case of disasters or mass violence

## 4.9 Information provision

31. **All victims should be provided with information on victim support services.** According to the French code of criminal procedure, police officers should “inform by any means victims of their rights: to be assisted by a service attached to one or several local public authorities or by an accredited victim support NGO”. A circular provides additional guidance on how this information is to be provided.<sup>138</sup>

32. **The obligation to inform victims of support services also covers victims who haven’t filed a complaint but have been heard by the police.** In particular it is stated that “it is imperative that the contact details of victim support NGOs be given to each victim coming to the Commissariat (police unit) or Gendarmerie, whatever the reason and whatever the hour”.

## 4.10 Individual assessment

33. **France strongly invested in an improved and comprehensive system of individual assessment of victims of crime.** The French Ministry of Justice developed guidelines on individual assessment of victims in co-operation national and European partners in the framework of the European project EVVI (EValuation of Victims)<sup>139</sup>.

## 4.11 Quality standards

34. **A strong focus and investment on quality standards by the French government enable continuous evaluation and improvement in victim support services.** Since many services are financed through public funds, indirect indicators of performance are formally included to match objectives in the finance programming bill. These measure performance of the public policy and indirectly the services provided by service providers (e.g. victim support NGOs). For example, Victim support services are assessed for delays in the provision of legal aid. Here data is gathered on the percentage of legal aid offices with response delays of over 2 months. The aim is to shorten delays in managing requests.<sup>140</sup>

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<sup>138</sup> Ibid.

<sup>139</sup> See EVVI (Evaluation of Victims), Ministry of Justice France (2015). (Available at: [http://www.justice.gouv.fr/publication/evvi\\_guide\\_en.pdf](http://www.justice.gouv.fr/publication/evvi_guide_en.pdf))

<sup>140</sup> See Victim Support Services in the EU: An overview and assessment of victims’ rights in practice France, Fundamental Rights Agency, (2014).

**35. The inclusion of victims' perspectives and views in the delivery of victim support services proves to be a great added value to offering good services to victims.** For example, one indicator used in evaluation of public government funding is the level of satisfaction of victims with victims' services.

**36. INAVEM carried out extensive evaluation of its services as part of continual improvement efforts.**<sup>141</sup> It has also been developing quality standards with and for victim support organizations in France.

#### **4.12 Access to Victim Support Organizations**

**37. Public services for victims and witnesses of crime cover most of the country.** In France, services are both centralized within the Ministry of Justice, and regionalized through services in courts or local NGO's.<sup>142</sup> BAVs for example are spread around the country<sup>143</sup>.

**38. In 2003, France introduced victim support units in case of emergency (Service d'aide aux victimes d'urgence).** They are established in several communes respond immediately to victims' needs in the aftermath of a crime. These teams are run by local victim support organizations and can intervene after receiving a call from police, prosecutor, court, hospital or social services.

**39. Access to support was expanded in 2001, with the establishment of INAVEM's national helpline for victims of crime.** Staff running the national victim support number called 08VICTIMES (08 842 846 37), listen to crime victims, provide them with information and direct them to associations close to their place of residence and to other services or competent bodies. INAVEM manages the European number 116 000 for families of missing children as well. The combination of wide-spread offices and a helpline enables many victims of crime in France receive victim support.

#### **4.13 Sufficiency of the support provided**

**40. INAVEM supports around 300,000 victims of crime every year.**<sup>144</sup> This equates to around 0.5% of the total French population (around 66 million) France, or around 8% of the estimated number of reported crimes (around 4 million).<sup>145</sup>

#### **4.14 Volunteering and Victim Support**

**41. In France, two thirds of those working for NGOs providing victim support are paid staff.** France has seen a trend towards the professionalization of victim support in recent years, away from the beginnings of victim support in the 1980s, when the majority of those working for victim support NGOs were volunteers. The National Council of Cities claims that volunteerism has declined as increasing numbers of full-time professional staff are employed (with cost implications for NGOs). INAVEM has roughly a 2:1 ration of paid staff to volunteer with 800 paid staff and 424 volunteers.<sup>146</sup>

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<sup>141</sup> Interview with main representative from INAVEM

<sup>142</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency (2014).

<sup>143</sup> See INAVEM, (2016). (Available at: <http://www.inavem.org/index.php/homepage/espace-grand-public>)

<sup>144</sup> Interview with main representative from INAVEM

<sup>145</sup> See Criminalité – Délinquance, Insee France. (Available at : [http://www.insee.fr/fr/mobile/etudes/document.asp?reg\\_id=0&ref\\_id=T13F081](http://www.insee.fr/fr/mobile/etudes/document.asp?reg_id=0&ref_id=T13F081))

<sup>146</sup> Interview with main representative from INAVEM



## 4.15 Training in VS organization

**42. Both basic and continued training on victims' issues is available for police officers in France.**

In the context of initial and continuous training, all police officers are trained to receive victims and can specialize (e.g. domestic violence, elderly abuse). The initial training within the gendarmerie also includes information on the reception of persons, and in particular women and children victims. Continuous training addresses victims' issues and reception by phone. A 2012 report however stressed the need for further development of the training of law enforcement officials, and more precise information as to the exact role of local correspondents for victims.<sup>147</sup>

**43. Judges and prosecutors receive specific training during their basic training on how to deal with victims of crime.**

The National School for the Magistracy (ENM) includes the rights of and interaction with victims in their initial training curriculum. This training focusses on access to law and victim support; consequences of victimization; the conduct of hearings, including those with vulnerable victims (e.g. children). Other continuous training sessions of the ENM focus on the victim in the criminal trial, the hearing of the child victim or support of victims of trafficking. A university diploma in victimology (D.U) can also be obtained in France.<sup>148</sup>

**44. Training on victims' issues is available for court staff and has undergone recent reforms.**

Victims' issues are increasingly discussed in training modules of court staff. Some specific training on victims is included in continuous (optional) training such as "Victim in the criminal trial" which was offered by the National School for the Magistracy (ENM) in Paris.<sup>149</sup>

**45. INAVEM has an important role in providing training to police and court staff.**

It takes part in training provided by the National Superior School for Police Officers (École Nationale Supérieure des Officiers de Police, ENSOP) and the National School for Registrars (École Nationale des Greffes – ENG). NGOs of INAVEM are also involved locally to training for partners like police, gendarmerie, and lawyers.

**46. The core mission of the training department of the INAVEM Federation is to ensure the professional qualification of staff within the federation on dealing with victims.**

Measures to systematize training include: waived fee for basic training for NGO staff members, and onsite training. Content of training for NGO staff is multidisciplinary and elaborate. It includes reception, hearings and debriefings with victims, support in court, and updates on the legislation/case law etc.

**47. Other NGOs provide training in the framework of conventions with ministries.**

For example, the LICRA (Ligue Internationale contre le racisme et l'antisémitisme) signed a convention with the Ministry of Interior in 2010.

**48. A strong collaboration between government and NGOs in the provision of training to professionals dealing with victims increases the quality and relevance of training on victims' issues.**

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<sup>147</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice France, Fundamental Rights Agency, (2014).

<sup>148</sup> Ibid.

<sup>149</sup> See Victim Support Services in the EU: An overview and assessment of victims' rights in practice France, Fundamental Rights Agency, (2014).

## 5 COUNTRY ANALYSIS: THE NETHERLANDS

### 5.1 Legislative structure

1. **Since January 2011 the Act for the Improvement of the Position of Victims in Criminal Procedure is effective in the Netherlands.** The new legislation enhances the rights of victims and their relatives and stipulates the independent status of victims in criminal procedure law, granting their own rights and powers. Victims have, for example, the right to deliver an impact statement during trial. They are however not a party to the procedure.

2. **The Netherlands has made a range of legislative changes to comply with the EU Directive through a new law of 12 April 2016 (currently awaiting Senate approval).** The following measures are included in the bill: victims have a right to information about why a suspect is not prosecuted; victims are entitled to information on the release of the accused or convicted person (currently that only happens in serious crimes); victims are entitled to be assisted by a person of their choice, for example a family member or an employee of Victim Support Netherlands; the prosecutor and the police need to improve their assessment of whether the victim is in need of protection; victims who do not speak Dutch, have the right to an interpreter and to translation of documents.<sup>150</sup>

### 5.2 Organization of victim support

3. **The leading victim support organization in the Netherlands is Slachtofferhulp Nederland (Victim Support the Netherlands; SHN).** Set up in 1984, it provides support to victims and witnesses of crime, to relatives of victims of homicide and victims of traffic accidents. Specific support is also available to children, elderly people, persons with disabilities, immigrant, transnational/cross-border and hate crime victims.

4. **SHN provides practical, legal, social and emotional support, as well as assistance to apply for compensation, information on victims' rights and on the national criminal justice system.** The main goal of the first contact is to find out what support the victim needs.<sup>151</sup>

5. **Support is provided through telephone (in Dutch), face-to-face (in Dutch and, if necessary, an interpreter is called), e-mail (Dutch and English) and through e-support (in Dutch).**

6. **SHN operates from 80 local offices, spread around the whole country of the Netherlands.** 1100 volunteers and 500 professionals provide support to victims on a daily basis. The organization is run from a national office in the city of Utrecht from where the central service phone line is operated and where management, finance, human resources, etc. is executed.

7. **The organizational structure of SHN consists of three divisions (general support; legal support; programs and innovation).** SHN is divided into 6 areas, each with a head of general support and a head of legal support. Each division has a director. The Board of Directors consists of 2 people in charge of the organization. They are checked by a supervisory board of seven people from academia, management, (former) prosecution services and psychological services.

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<sup>150</sup> <https://www.slachtofferhulp.nl/Actueel/2016/Implementatiewet-van-Europese-richtlijn-slachtofferrechten-door-Tweede-Kamer-aangenomen/>

<sup>151</sup> Dutch Ministry of Security and Justice (2015), p. 33

**8. In cases of murder or manslaughter, extremely violent and sexual crimes, a case manager may be assigned.** A case manager is a specialized paid employee of SHN supporting and advising next of kin or victims with legal, practical and emotional support. They work closely with police family liaison officers and case coordinators in the public prosecution service. They might help funeral arrangements, advice on how to handle the media, have contact with victims' or next of kin's employers, schools or insurance companies, check if any funds are applicable to the situation of the victim, etc.

**9. Case managers see many cases and often for a longer duration.** Case managers worked on 1664 cases at the start of 2015 with 1097 new cases opened that year and 623 cases closed. This left 2138 pending cases at the end of 2015. Case managers often provide several years of support due to the complexity of the crime and its aftermath. The service begins as soon as possible after the crime or when the victim or the next of kin need it, ending after the final judgment.<sup>152</sup>

**10. For emergencies, there is the 'Standby Service': a 24/7 service for immediate face to face support for victims of crime or traffic incidents and calamities operated in close collaboration with the police.** The police might request SHN to be present at a crime scene for example. By having this service available, SHN ensures victim support is available at all times. Especially in cases of emergencies, it is important to have appropriate support ready.

### 5.3 Funding of victim support

**11. SHN receives most of its funding from the Ministry of Safety and Justice.** Important additional funding is obtained from the local city councils. Funding is also received from the ministries that are responsible for transport (I&M) and for public health (VWS) and from charities.<sup>153</sup>

**12. SHN's primary expenditure is staff costs.**

2015 Annual Accounts: Income and Expenditure <sup>154</sup>	
<b>Income</b>	
Ministry of Safety and Justice	32.395.892
Ministry of VWS	576.085
Local city councils	3.648.598
Other	99.740
Charities	761.878
Other Income	534.381
<b>TOTAL INCOME</b>	<b>38.016.574</b>
<b>Expenditure</b>	
Staff costs	25.666.836
Organizational costs	10.210.692
Support costs	1.018.266
<b>TOTAL EXPENDITURE</b>	<b>36.895.794</b>

**13. Victim support services as offered by SHN are available to everybody and are free.**

<sup>152</sup> See Slachtofferhulp Annual Report 2015, Slachtofferhulp. (Available at: <https://www.slachtofferhulp.nl/Over-Ons/Jaarverslag-2015/Hulpverleningscijfers/>)

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

## 5.4 Generic and specialized victim support

14. **There is one main generic support organization (SHN) though several organizations provide more specific support.** For example, Safe at Home (Veilig Thuis) supports victims of domestic violence, the Criminal Injuries Compensation fund provides financial support to seriously injured victims of violent crimes, *Slachtoffer in Beeld* (Victim in Focus) provides victim-offender mediation and numerous NGOs support victims of sexual violence and human trafficking.

15. **The *Slachtofferloket* (Victim-counter) is located in the 10 courts of the Netherlands and provides victims information, advice and (practical and legal) support during the proceedings.** At the *Slachtofferloket*, police, public prosecution and SHN co-operate closely. It provides victims one central point to ask for information on their case. Moreover, it now serves as a platform for creating cooperation agreements and consultation on custom fit support.<sup>155</sup>

## 5.5 Referral system

16. **A system of referral from the police to SHN is in place.** Together, the police and SHN created a list of 68 crimes where the police automatically refer the case and victim(s) to SHN unless the victim objects to this. As soon as there is a new registration in the police system, SHN will receive the contact details of the victim and the type of crime in their system.<sup>156</sup> This proactive referral system ensures consistency in support offers and overcomes some level of reliance on individual officer goodwill.

17. **Most of the contacts with victims (89% of the cases) are initiated through the police referral system.** In 9% of the cases, victims contact SHN themselves, usually through their hotline. In such cases, data is not shared as this would damage the integrity of the victim. Only 2% of the cases are referred by social workers and general practitioners. After receiving a victim's contact details, SHN will contact them. The norm is to do so within two working days.

## 5.6 Coordination mechanisms between organization, government and state actors

18. **In the Netherlands, a victim policy unit within the Ministry of Safety and Justice carries the policy responsibility for victim support.** On a monthly basis they organize a multi-stakeholder meeting with all relevant organizations involved (police, public prosecution, victim support, probation, prison system etc.) Victim support is discussed on a regular basis within the tripartite consultations between the public prosecutor service, the police and local authorities at the regional level. National policy on victims is directly synchronized between parties and communicated to their partners to ensure consistent policy throughout the country.

## 5.7 Information provision

19. **General information on victimization and relevant support providers is available via the comprehensive website of [www.slachtofferwijzer.nl](http://www.slachtofferwijzer.nl).** It refers to all relevant and related organizations in the field of victim support. The website is funded through government and social funds. The website is currently looking to develop a mobile app.

## 5.8 Quality standards

20. **In order to monitor the performance of the organization, SHN has a dedicated quality manager.** Indicators for quality include the level of satisfaction expressed by victims through surveys

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<sup>155</sup> See Dutch Ministry of Security and Justice (2015). *Eindrapport Beleidsdoorlichting Artikel 34.4 Slachtofferzorg*. P. 23

<sup>156</sup> See Dutch Ministry of Security and Justice (2015), p. 21

or short questionnaires.<sup>157</sup> Such a manager continuously ensures the quality of the services delivered and makes sure the organization will continue innovating.<sup>158</sup>

## 5.9 Access to victim support organizations

**21. SHN is currently working towards Slachtofferhulp 2.0, a concept whereby the organization will focus more on the online provision of support via “call- click- and face-services”.** Although currently social media and chat are already in use 2.0 program make further use of digital opportunities to improve the support system to reach more (different types of) victims.

**22. SHN has offices around the country which ensures support in most Dutch regions.** The geographical spread of SHN offices, combined with distance services ensures that most people in the Netherlands – irrelevant of where they live – are able to get some form of victim support.

**23. Online visibility and information provision is increasingly important for SHN.** The number of unique visitors to [www.slachtofferhulp.nl](http://www.slachtofferhulp.nl) increased by 12% to 343,483 this year compared to last year. SHN also has a strong following on social media thus broadening victim awareness.

**24. SHN is putting in great efforts to improve accessibility to their services.** SHN is working actively through online sources to reach more victims. More and more people are contacting SHN online which means that people are not tied to opening hours (they can ask their questions at any time). SHN’s helpline receives nearly 100,000 calls from victims. Staff supporting them will concretize the request for help, arranging a meeting with a colleague, and provide information and referrals, if necessary, to another organization. SHN proactive approach to contacting victims is greatly appreciated by them.

## 5.10 Sufficiency of the support provided

**25. In 2015 SHN provided support to around 182.000 victims, the majority of whom reached SHN through police referrals.** However, the low rate of victims reaching SHN through non-police channels unveils that victim support might not be reaching a large part of the victim population.

**26. In 2015, SHN received data on 237 080 victims, survivors, witnesses and those involved in a crime, accident or disaster.** On receiving the data, SHN makes three contact attempts. This resulted in 182 039 victim contacts being made which represents an increase of 16% compared to 2014. Of these, 113,407 (62%) victims were sufficiently helped through a one-time contact or advice, and 68,632 (38%) victims needed continued assistance. The 55,041 failed contacts were due to a no answer or because the (correct) phone number was missing. If SHN is unable to contact the victim a letter is sent offering support to the victim.

## 5.11 Volunteering

**27. Volunteer positions are not generally available but are rather advertised by SHN.** Volunteers may work in any one of the three areas of SHN: first contact, general support or legal support.

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<sup>157</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency (2014). (Available at: [http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_en_0.pdf)), p. 92

<sup>158</sup> See Kwaliteitsontwikkeling, Slachtofferhulp (2016). (Available at: <https://www.slachtofferhulp.nl/Over-Ons/Jaarverslag-2015/Kwaliteitsontwikkeling-/>)

## 5.12 Training

**28. All volunteers at SHN receive basic training after they have been selected to work for SHN.** The training covers interviewing techniques, victims' needs and the services SHN provides. Some legal instruction, focusing on victims' rights in the Netherlands is provided. Volunteers working in specific fields receive additional specialized training.

**29. SHN has its own training academy, the Slachtofferhulp Academy.** This academy provides 247 different training programs for all (paid and unpaid) employees of SHN and external stakeholders. The general theme of most training is 'quality'. In 2015, 2,340 employees participated in training. By having their own academy, SHN ensures high quality training by skilled and specialist training staff. The academy also provides training to external people either in collaboration or through their own programs.

**30. SHN recently researched victims training for professionals in the criminal justice system.** The main findings were that the training programs provide good coverage on 'victims' rights' and 'legal aspects of claiming damages caused by the offender'. Training on 'Treatment of victims and victim awareness' is also provided but remains open for improvement.<sup>159</sup>

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<sup>159</sup> See Victims of crime in the EU: the extent and nature of support for victims, Fundamental Rights Agency (2014). (Available at: [http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support\\_en\\_0.pdf](http://fra.europa.eu/sites/default/files/fra-2015-victims-crime-eu-support_en_0.pdf)), p. 27