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Report on the implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 on the establishment of minimum standards of the rights, support and protection of victims of crime in the Republic of Croatia

Documenta – Center for dealing with the past from Zagreb, Center for peace, nonviolence and human rights from Osijek, The White Circle of Croatia from Split and Croatian Victim and Witness Support Service from Vukovar are implementing the project entitled „Rights, Support, Protection and Compensation of Victims of Crime“ in order to contribute to the implementation of Directive 2012/29/EC on minimum standards of the rights, support and protection of victims of crime and Directive 2004/80 /EC on compensation of victims of crime.

The aim of the project is establishment of data collection and analysis system (Central Information Point) on criminal cases, which would provide an overview of the issues faced by the victims of criminal acts and serve as a tool for displaying statistical data. The specific

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objectives of the project are: the collection of reliable and updated data on victims of criminal offenses; improvement of implementation of relevant legal frameworks and improvement of knowledge and work of experts in contact with victims; strengthening the capacity of civil society organizations (CSOs); development of organizational co-operation, coordination and mutual trust between legal entities; advocating the development of EU policy on victims' rights.

With this report, we want to encourage further development of support and realization of the rights of victims of criminal offenses through further legislative activities of the Croatian Parliament and full implementation of existing laws in accordance with the norms of the Directive. The findings of this report are based on activities carried out within this program – education of CSOs and professionals in contact with victims, monitoring of trials, preliminary research results, as well as on previous activities and experiences in dealing with victims.

The report is composed of three parts, concerning the legal basis of the implementation of the Directive, its application in practice in relation to the development of victim and witness support systems, as well as the presentation of preliminary research findings and conclusions.

1. Review of legislation

1.1 CRIMINAL PROCEDURE ACT

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

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

The most important changes to the rights of victims of crime are contained in Chapter V Victims, Defendants, Private Prosecutors, which in Art. 43, along already established rights of victims of criminal offenses, also adds the other rights standardized by the Directive, giving them in sequence: 1) the right of access to Support services to victims of crime, 2) the right to effective psychological and other professional assistance and support of bodies, organizations or institutions for assistance to victims of criminal offenses in accordance with the law, 3) the right to protection from intimidation and retaliation, 4) the right to protection of dignity during the examination of the victim as a witness, 5) the right to be heard without unjustified delay after the filing of the criminal report and that further hearings are conducted only to the extent necessary for the purpose of the criminal proceedings, 6) the right to be accompanied by a person of trust in taking the actions in which they participate, 7) the right to medical treatment to a victim is undertaken to the smallest extent possible and only where strictly necessary for the purposes of criminal proceedings, 8) the right to submit a proposal for prosecution and a private lawsuit in accordance with the provisions of the Criminal Code, the right to participate in criminal proceedings as an injured party, the right to be informed of the dismissal of the criminal charge (Article 206, paragraph 3 of this Act) and the withdrawal of the State attorney from criminal prosecution and the right to take over the criminal prosecution instead of a State attorney, 9) the right on information from the State Attorney about the actions taken on the application (Article 206a of this Act) and filing a complaint to a Senior State Attorney (Article 206.b of this Act), 10) the right to be informed on the request, without unnecessary delay, on the termination of detention or investigative prison, the escape of the defendant and the release of prisoners from serving imprisonment and the measures taken to protect the victim, 11) the right to be informed on the request of any decision terminating the criminal proceedings, and other rights prescribed by special laws.

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

An individual assessment of the victim is the most recent novelty of the CPA prescribed by art. 43.a which obliges investigative bodies to conduct an individual assessment of the victim in cooperation with the bodies, organizations or institutions for the assistance and support of

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

victims of crime, before the victim's examination, in order to determine whether there is a need to apply special protection measures and what specific protection measures should be applied (a special way of examination, use of communication technologies to avoid visual contact with the perpetrator and other measures prescribed by law). The adequate individual assessment of the victim includes, in particular, victims of terrorism, organized crime, human trafficking, gender-based violence, violence in close relationships, sexual violence and sexual exploitation or hate crime, disabled victims, or, broadly speaking, when taking individual victim assessments, the personal characteristics of the victim are especially taken into account, as well as the nature of the criminal offense and the circumstances of the perpetration of the criminal offense. In doing so, special attention is given to victims who have suffered significant damage due to the gravity of the criminal offense, victims of crime committed because of some of their personal characteristics and victims who are particularly vulnerable because of their relationship with the perpetrator.

It is also important to note that the individual assessment of the victim is carried out with the participation of the victim and taking into account her wishes, including the desire not to use special protection measures prescribed by law.

1.2. REGULATIONS ON IMPLEMENTING AN INDIVIDUAL VICTIM'S ASSESSMENT

The regulations prescribe the conditions and the method of producing an individual assessment of the needs of protection and support for victims of crime, the mandatory contents covered by the assessment and the data on which the needs assessment is based. The victim's needs assessment is carried out by all bodies of the pre-trial and criminal proceedings (police officers, state attorneys and judges) that come into contact with the victim, starting from the inquest, until the final completion of the criminal proceedings.

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

Special protection measures of victims include, in addition to procedural protection measures (for example, a special way of examination, the use of communication technologies in order to avoid visual contact with the perpetrator, the exclusion of the public from the hearing, the examination by a person of the same sex and, if possible, the examination is carried out by the same person in the case of re-examination, escort by a person of trust, the protection of the

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

confidentiality of personal data), enabling conversation with a counselor at the expense of budgetary resources, as well as other measures envisaged by law.

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

The regulations state to prescribe the conditions and the method of making an individual assessment of the needs of the victims of criminal offenses, thus neglecting the victims of misdemeanor offenses. The tendency of European legislation is to equalize victims of criminal and misdemeanor offenses, so that victims of misdemeanors would not be in a disadvantaged position. We emphasize that in Croatian legislation, majority of the violence that is happening in close relationships is being processed within the misdemeanor procedure, and that restricting the application of the Regulations only to criminal offenses would greatly limit the rights of a large number of victims. We also point out that all standards for the protection of the rights and interests of victims guaranteed by the Directive in criminal proceedings are, in principle, equally applicable to criminal and misdemeanor proceedings in the Croatian legal system.

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

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Office for Cooperation with NGOs

Finally, we note that CSOs are marginally involved in the individual assessment process, even though their findings can be used by criminal prosecution bodies which are conducting victim investigations, wherein the person/official is left with too much freedom in an individual assessment, while ignoring victim's opinions or needs. Generally, we consider the Regulations are insufficiently detailed, which does not fulfill the role of the Regulations as such. Namely, Regulations are used in order to elaborate the general legal provisions in detail, which is not the case in the abovementioned Regulations. With such Regulations, the form is completed, but not the purpose for which the Regulations are made.

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

1.3. REGULATIONS ON TAKEOVER OF DIRECTIVE 2012/39/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ESTABLISHMENT OF MINIMUM STANDARDS OF THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME AND REPLACING COUNCIL FRAMEWORK DECISION 2001/220/JHA – draft

Directive 2012/29/EU, among other things, requires the Member States to provide the European Commission with available data at certain intervals, which show the ways in which the victims of criminal offenses used the rights set out in the Directive. Namely, a systematic and appropriate collection of statistical data has been identified as a key component of effective policy-making in the area of rights that are defined in this Directive, while for the evaluation of its application, Member States must provide the European Commission with the relevant available data.

The Regulations, composed of four articles, do not determine which bodies are responsible for submitting data to the European Commission, but only that the data will be submitted to the Ministry of Justice, which will request statistical processing from the Central Bureau of Statistics. The Regulation does not contain information on the type of data to be collected. Because of this, Regulations as a delegated legislation are not clear and are not subject to any amendments or criticism. Public consultation was open until 20.10.2017.

2. Further development of support to victims and witnesses in the prosecution of war crimes

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Office for Cooperation with NGOs

The most important event for the development of support for victims and witnesses of criminal offenses during 2015 was the adoption of the National Strategy for the Development of Support Systems for Victims and Witnesses in the Republic of Croatia for the period from 2016 to 2020.¹ But the Strategy is incomplete until a relevant Action Plan is adopted. The strategy contains a very comprehensive analysis and assessment of the situation, general objectives and measures, but does not contain clear deadlines for their implementation, stakeholders, nor the analysis of sustainability and assessment of the resources needed.

The development of victim and witness support system in the Republic of Croatia stagnated during 2015. We will note the observed difficulties and shortcomings in the work:

- National legislation – laws and delegated legislations - remains inconsistent with Directive 2012/29 / EU on the establishment of minimum standards for the rights, support and protection of victims of crime of the European Parliament and the Council of Europe from 2012, which was supposed to be transposed into domestic legislation by November 2015;
- No Action Plan for victims and witness support development has been created that follows the National Strategy for the Development of Victims and Witness Support Systems in the Republic of Croatia for the period 2016 - 2020;
- The support system has not been extended to other County Courts², and strong centralization and institutionalization is still felt in the system;
- Even though the victims, as well as defendants, need to be rehabilitated in the community after the end of court proceedings, after the verdict is passed, institutions and society are sporadically and rarely involved in dealing with them;
- The “lifelong” support process did not take off. The victim often needs to express a clear need for some form of support/assistance.

It is necessary to further strengthen organization of support in state attorney's offices and police and continue with the training of officials who are in contact with victims. Education organized by CSOs specialized in work with a particular type of victims³ should be continued and strengthened, while it is also necessary to work on the officials' awareness to seek

1 http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html

2 The Victims and Witness Support System is currently established only in seven County Courts; Zagreb, Split, Osijek, Rijeka, Vukovar, Sisak and Zadar.

3

Such as victims of domestic violence, war crimes, children, victims of torture, etc.

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

education from these organizations on their own initiative, as well as to continue with the ongoing cooperation, especially when it comes to reporting criminal offenses. Along with human capacities, little or nothing is invested in the maintenance and development of technical and technological capacities.⁴

The role of CSOs in terms of decentralization is characteristic, because they operate in geographic and other areas where the state has no solutions or sufficient capacities, and their importance is also pointed out in Chapter V of the National Strategy. However, it is crucial to provide funding sources for civil society organizations that are working hard to develop their existing capacities, providing one of the primary forms of support, free legal aid, or analyzing the needs of victims and witnesses, while advocating for the improvement of the support system.⁵

Decentralization of the support system is welcome, as indicated by the need of expanding the support of victims and witnesses of war crimes in rural areas, increased need for an informative, emotional and logistical, legal and psychological support. Victims often want to be provided with informative and emotional support by CSOs, and are reluctant to seek help from state institutions due to lack of empathy for them, their relatives or family members. They complain about the incomprehensibility of the contents of certain documents/forms as well as about the slowness of the system.

As an example of good practice, we emphasize activities of strengthening and informing on the rights of victims and injured parties and providing them with practical information, conducted by *Croatian Victim and Witness Support Service*.⁶

Although a free phone number 116 006 of the National Call Center for Victims of Crimes was introduced in July 2013, and specified on the leaflets considering rights of victims of crime, no reasons are given which explain why the victim should call this number, while officials often do not explain nor provide a clear direction for its use. Also, contrary to the instructions

4

One example is an audio-visual system which is expensive and damageable, often leads to a delay in giving a victim's testimony, causing re-traumatization, from reappearance in court to the preparation for testimony.

5

Both in terms of implementation of the Directive, as well as basic convention standards.

6 Through the project "Strengthening the capacity of CSOs dealing with providing support", their focus is on introducing a comprehensive support system in four counties Dubrovnik-Neretva County, Istria County, Varaždin County and Požega-Slavonia County, where support to victims and witnesses is underdeveloped or non-existent, and where there are no Victims and Witness Support Departments at the County Courts. Victims and witnesses support has been introduced in "Deša - a regional center for community building and civil society development" for Dubrovnik-Neretva County and "Delfin - Center for Support and Development of Civil Society". Since January 2016, VWSS has introduced comprehensive support to the "HOMO - Association for the Protection of Human Rights" from the Istria County and the "Women's Club – Varaždin" from the Varaždin County. Currently, a call for volunteers is open for Istria and Varaždin County.

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

of the Police Directorate, some Police Departments and Stations do not refer beneficiaries to the services of individual institutions, state offices or phone number 116 006.

From the observations in practice we can conclude that some measures from the National Strategy have not yet taken off. We emphasize that no comprehensive and objective register of victim and witness support providers has been created and preconditions for implementing projects and programs of CSO-s which provide support are not ensured. In addition, the free legal aid system is inadequate, inconsistent and limited to a small number of legal aid providers, as well as free legal aid users.

Therefore, the victims of criminal offenses go from psychologists to legal aid providers and other providers of assistance, restoring their trauma and not working to make a safer and better integration into the society in order to continue with their activities.

In late 2016 and September of 2017, Ministry of Justice of the Republic of Croatia, announced public calls for proposals for financing the activities of partner network of organizations for support and assistance to victims and witnesses in Counties where there are no victim and witness support departments, which is the first step to spread support and involvement of CSOs as equal partners. Although we welcome this initiative, since these are ongoing or future co-operations, it is too early to give an assessment of the sustainability of this cooperation, the sufficiency of allocated funds, as well as the quality of the support provided.

3. Financial compensation for victims of serious criminal offenses

Law on financial compensation for victims of criminal offenses which was adopted in 2008, entered into force on 1 July 2013, on the day of the Republic of Croatia's accession to the European Union. The convention, which was the foundation for this law, is based on the theory of state solidarity with the victims and not the state's responsibility towards the victim. The state gives compensation not because it is responsible, but because it is solidary and because it is fair. The Directive stipulated not only that the state must have a system of compensation, but also that it must have the state bodies involved in the process, as well as an obligation to inform the victim about these rights. The fact is that in this aspect, expectations that existed when the directive was adopted were not fulfilled in the European Union, and the injured parties point out the complexity of the procedure, long duration, language barriers, legal aid shortcomings and the problems of financial compensation system. During the two and a half years of application of the law, less than 180.000 HRK was paid as compensation.

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

An additional concern is the following data: a total of 6668 criminal offenses were reported for seven types of criminal offenses (murder, aggravated murder, severe bodily injury, particularly severe bodily injury, severe bodily injury with the result of death, rape and robbery), while there was 78 claims for compensation. Thus, one percent of the injured party filed a claim, while 19 claims were adopted, partially or entirely. Numbers indicate that victims are probably poorly informed, given the amount of claims that is very small. During 2016, Law on financial compensation for victims of criminal offenses was not applied, there were no payments to victims, because some members of the board had completed their mandate, and the Government has not appointed new ones.

4. Problems noted in practice

After the Act on amendments of the Criminal Procedure Act/08 first introduced the term "victim", it gradually changed its definition which is today known by Act on amendments of the Criminal Procedure Act/17, and determined as “a person who has suffered physical and mental consequences, property damage or substantial violation of the fundamental rights and freedoms that are the direct consequence of the criminal offense. A spouse, a common-law partner, a life partner or an informal life partner and a descendant, and if there are none, ancestor, brother and sister of those persons⁷ whose death was directly caused by a criminal offense and the person for whom legal obligation of support existed, are also considered victims of criminal offense.”⁸ The definition is aligned with Directive 2012/29 / EU. The amendment excludes legal entities from the victim's definition and introduces the distinction between "indirect" and "direct" victims of the criminal offense.

Act on amendments of the Criminal Procedure Act/17 has separated the role of the victim from the role of the injured party. This clearly distinguishes these terms. The injured party is a term for possible participants in the criminal procedural law, who along with the victim may be a legal person against whom a criminal offense has been committed. The clear distinction between the position of the victim and the injured party was one of the basic goals to be achieved by the proposed amendments. The terms are not equivalent and cannot be considered in the "broader-narrower" sense. Consequently, this is certainly a problem for victim support services because it makes it more difficult to be informed about the rights if

⁷ According to the opinion of Natalija Slavica, deputy of the County State Attorney in Zagreb, expressed at the professional training session held in July 2017 within the project "Rights, Support, Protection and Compensation of Victims of Crime", abovementioned concept of indirect victims is not well defined. She thinks that it would be better to use a syntagm “close person”, because, at the moment, adoptive parent and adoptee are not mentioned in the definition of an indirect victim.

⁸

Act on amendments of the Criminal Procedure Act/17, art. 58 on amendment of art. 202/1 and 2 of Criminal Procedure Act

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

the person who is addressing the support does not know whether she/is treated as a victim or as an injured party in the proceedings. There is a question of expediency of such unequal position of persons involved in court proceedings, victims/injured parties as participants in criminal proceedings who, due to imprecise terms are unaware of the rights that apply to them.

The regulation of the right to receive information

Article 4 of Directive 2012/29 /EU provides that Member States are obliged, without delay, to provide the following information from the first contact with the victim: 1) 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; 2) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures; 3) how and under what conditions they can obtain protection, including protection measures; 4) how and under what conditions they can access legal advice, legal aid and any other sort of advice; 5) how and under what conditions they can access compensation; 6) how and under what conditions they are entitled to interpretation and translation; 7) 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; 8) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings; 9) the contact details for communications about their case; 10) the available restorative justice services; 11) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed. The very formulation of Article 4 of Directive 2012/29 /EU "right to receive information" shows that proactive search for information is to be transferred from the victim to the competent authorities.⁹

Support services should have a more equal position in the victim support system, as Member States are no longer only obliged to promote the role of support services but are also required to provide victims with access to support services. In the Republic of Croatia, police officers have a major role in process of informing victims. When reporting a criminal offense, they are obliged to provide victims with information about their rights, verbally and through the delivery of written information about victims' rights. The Republic of Croatia informs the victims through the *Notification on the Rights of Victims of Crime*, whose advantage is written content of the rights that is being handed out to victims during the first contact (usually when filing a criminal offense) in twenty languages. The positive side is that the written format is

⁹ The competent bodies are not precisely defined because of possible differences in the competences of individual Member States.

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

better suited for informing victims, because of the trauma that the victim experiences, and in that sense, verbal form of information would not be effective. There is a question of how to provide information to victims who have not reported a criminal offense. Precisely because of them, it is necessary to be innovative in finding communication channels and ways of information.

With the Instruction of November 11, 2014 of the Police Directorate, all Police administrations are obliged to provide victims with information about their rights, as well as with contact details of victim and witness support services at the County Courts, phone number of the National Call Center for Victims of Criminal Offenses and phone numbers of state administration bodies and CSOs which are dealing with the support and protection of victims in the specific County. Besides the police, State Attorney's Office of the Republic of Croatia is obliged to acquaint victims with their rights. With mandatory guidance from July 9, 2014, the State Attorney's Office of the Republic of Croatia obliges all County and Municipal State Attorneys to conduct a treatment adequate for police officers, especially in providing information about the work of the Victim and Witness Support Department, referring victims to them, as well as to the National Call Center for Victims of Criminal Offenses.¹⁰

According to the National Call Center for Victims of Criminal Offenses (hereinafter: NCC), in 2017 (until October 31st) 148 of 558 victims were referred to them by Police. NCC data for 2017 show that only five callers learned about phone line 116 006 from the State Attorney's Office, which leads us to a conclusion that victim's right to information is not fully implemented in practice, especially when it comes to referring to existing support services.

The problem is already occurring when informing about available support services, especially about psychological support because it is not available in the entire territory of the Republic of Croatia. When it comes to the right to provide legal aid and any other kind of advice¹¹ to victims, information is omitted that legal assistance under the Law on Free Legal Aid "Official Gazette" No. 143/13¹² applies only to civil and administrative disputes. This means that its provisions concerning the victims of criminal offenses, only relate to the exercise of the right to compensation for the damage caused by the criminal offense committed.¹³ Thus,

10 Decision on the adoption of the National Strategy for the Development of Victim and Witness Support System in the Republic of Croatia for the Period 2016-2020 (hereinafter: the National Strategy), NN 75/15, available on: http://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html

11

Directive 2012/29 / EU, Art. 4

12

The Law on Free Legal Aid (OG 143/13), available on: <https://www.zakon.hr/z/286/Zakon-o-besplatnoj-pravnoj-pomo%C4%87i>

13

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

for example, it does not apply to the right of a free assignee in criminal proceedings. The right to any other type of advice could be related to a victim's right to a counselor, which is not defined by law. The recommendations of the European Commission clearly state that "the right to advice" should be interpreted broader than usual because it does not apply only to legal advice, but it may also relate to financial advice and advice in the field of insurance. The counselor could be a professional which provides help (for example, a psychologist) if such advice is needed for the victim of a criminal offense. Directive 2012/29 / EU states that the victim should also be informed of the ways of obtaining compensation for damages, which the legal system of a particular Member State envisages. In the Republic of Croatia, this includes information on submitting property claim and information on the Law on financial compensation to crime victims.¹⁴ This Law entered into force with the accession of the Republic of Croatia to full membership of the European Union, and until 16 February 2017, 161 requests were submitted; 114 cases were solved, of which 2 requests were totally accepted, and 21 of them partially accepted.¹⁵ Although the Law on financial compensation to crime victims is rather restrictive and does not apply to all other criminal offenses, but only to criminal offenses of intentional violence (see Article 1 of the Law), the fact that only 161 requests were filed in four years of its existence, proves that victims are not informed of its existence. A large number of rejected claims confirm that even those who are familiar with the existence of the Act, are not sufficiently familiar with the requirements that must be achieved for the recognition of the right to the payment of financial compensation from the state budget.¹⁶

From the example of the right to advice and legal aid, it can be concluded that there is a lack of clear formulations, which makes extremely important to linguistically adjust the brochures on the rights of victims to the average citizen, which most likely does not have the necessary legal knowledge in the area of criminal procedural law.

Better coordination between competent state bodies is needed to ensure standardization of information provided to victims and to link the victim's right to information, in accordance with Directive 2012/29 / EU, which stipulates the obligation of training of employees in the system of support for crime victims. Training is needed to educate officials of all competent bodies on sensitized access to victims of criminal offenses, that is, for a multidisciplinary

The Law on Free Legal Aid (OG 143/13), Art. 15/1 al. b.

14

In accordance with Directive 2012/29/EU of Council 2004/80 / EC of 29 April 2004, on compensation for victims of criminal offenses

15

Data of the Committee for financial compensation; Independent Victim and Witnesses Support Service; Ministry of Justice (data available on request). Paid: 197 765,56 HRK

16 Concerning this: in the part of Law on financial compensation to crime victims: II CONDITIONS, Articles 5-9

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

approach in dealing with victims in order to fully and clearly inform the victim of their rights, while preventing secondary victimization and retraumatization.

The European victim support organization, VSE, in its Recommendations for the Implementation of Directive 2012/29/EU, states: "The Member State is responsible for providing full information or at least informing the victim of where the information is available and examining the victim's wishes for information; the victim has the right to receive information and not to be responsible for the technicalities related to the delivery of such information. "

The problem with achieving the goals of the National Strategy for the Development of Victim and Witness Support Systems is the absence of the Commission for monitoring and improving victim and witness support systems. It was supposed to make a draft for an Action Plan with precisely defined individual measures, ways of realization, deadlines and financial resources needed for implementation.

For the Victims' Support Services, the biggest challenge is the instability in the financial support of the CSOs and insufficient cooperation between the CSOs and other competent institutions in providing support to victims of criminal offenses. The European Commission's recommendations include call to Member States to consider allocating financial resources on a regular basis to victim support services (unless they decide to be entirely independent). Such support can be ensured through formal and transparent contractual relations, depending on the quality and reliability of the CSOs which would be provided with financial support.

Additionally, the European Commission recommends the establishment of a National Fund for Crime Victims to fund CSOs. The funds would be collected through monetary sanctions imposed on the perpetrator of criminal offenses. The aforementioned could be realized in practice through the already existing provision of the CPA, which by Article 206.d. provides the option of "paying a certain amount in favor of a public institution for humanitarian or charitable purposes".¹⁷

Co-operation between CSOs and institutions in providing support to victims of criminal offenses

The challenge is also present in the realization of cooperation of CSOs with relevant state bodies and institutions in the system of support to victims of criminal offenses. Although Directive 2012/29 / EU and Law on amendments of Criminal Procedure Act /17 and the National Strategy for the Development of Victim and Witness Support System in the Republic

17

Act on Amendments to the Criminal Procedure Act, "Official Gazette" 145/2013 Art. 206 d/1a1.2

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

of Croatia emphasize the obligation of co-operation between institutions and the civil sector, the practical application of this obligation still leaves room for progress. The question that arises regarding the individual assessment is the question of the availability of insight into the documentation of the individual assessment to the perpetrator and his attorney. It is important to protect the victim and his or her personal information, including those strictly relating to personal life, and required for the implementation of individual assessment. On the other hand, the respect of the rights of the defendant must not be disregarded, concerning the principle of contradiction and confrontational right.¹⁸ Therefore, an extremely important practical question arises: *In what form should the data obtained in the process of individual assessment of the victim be stored?*

It is questionable how much the authorities will respect the recommendations of Victims Support Services and what is the legal force of such recommendations. Informal co-operation between competent state bodies and support services could prove to be deficient, precisely because of the lack of co-operation modalities.

Experiences of the *Victim and Witness Support Service* in dealing with victims of criminal offenses point to problems highlighted by the people who addressed the NCC. Problems include violations of Directive 2012/29/EU, starting with not receiving the criminal and misdemeanor charges due to insufficient knowledge of gender-based violence and its forms (e.g. economic violence), disapproved examination via video link of victims of crimes against sexual freedom and trafficking, unsensitised conduct of police officers and representatives of the State Attorney's Office, lack of information on the existence of victims' rights and phone number 116 006, ban on the presence of a "person of trust" in certain actions within the criminal proceedings (e.g. during a court visit and examination)¹⁹, disapproval of an assignee at the expense of the state budget for the victim who is a child.

Therefore, in the work of CSOs there is an advantage in the continuous effort to implement Directive 2012/29 / EU through professional training of employees, thus contributing to the establishment/strengthening of cooperation and coordination of services. Within their activities, numerous CSOs design and carry out education for individuals who are professionally dealing with victims of criminal offenses.²⁰ Such education is an example of good practice as it provides networking, exchange of experience and knowledge, as well as by

18

IUS-INFO: "Contradiction, confrontation, and decision-making about evidence suggestions", September 2014, available at: <http://www.iusinfo.hr/DailyContent/Topical.aspx?id=19420>

19

Victim and Witness Support Service, Report to the Ombudsman for 2016, Zagreb, 2017.

20

For example: Women's Room - Center for Sexual Rights, Documenta – Center for dealing with the past, Victims and Witness Support Service, Zagreb Pride...

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

laying the foundation for further joint work on improving the position of victims in criminal proceedings.

Directive 2012/29/EU is also an advocacy tool for Member States to recognize victim support services, mainly civil society organizations, as equal participants, which requires close cooperation with the competent state bodies; representatives of institutions. It can be concluded that through the provision of comprehensive institutional support and civil sector work, it is more likely that the Directive 2012/29 / EU will be implemented correctly and substantively. It is also important to work more closely on the coordination of the competent authorities and support services, given the fact that research shows there is no consistent practice of providing information on victim support services throughout the Republic of Croatia. **Recommendation for successful use of rights to access support services is the establishment of a high quality and effective referral system between the first contact points (usually the police) and the existing civil society organizations involved in dealing with victims.** Certainly, attention should be paid to protecting the victim's personal data and to ensure that a victim would not be forced to repeatedly express experienced traumas to a large number of different people, in front of various organizations.

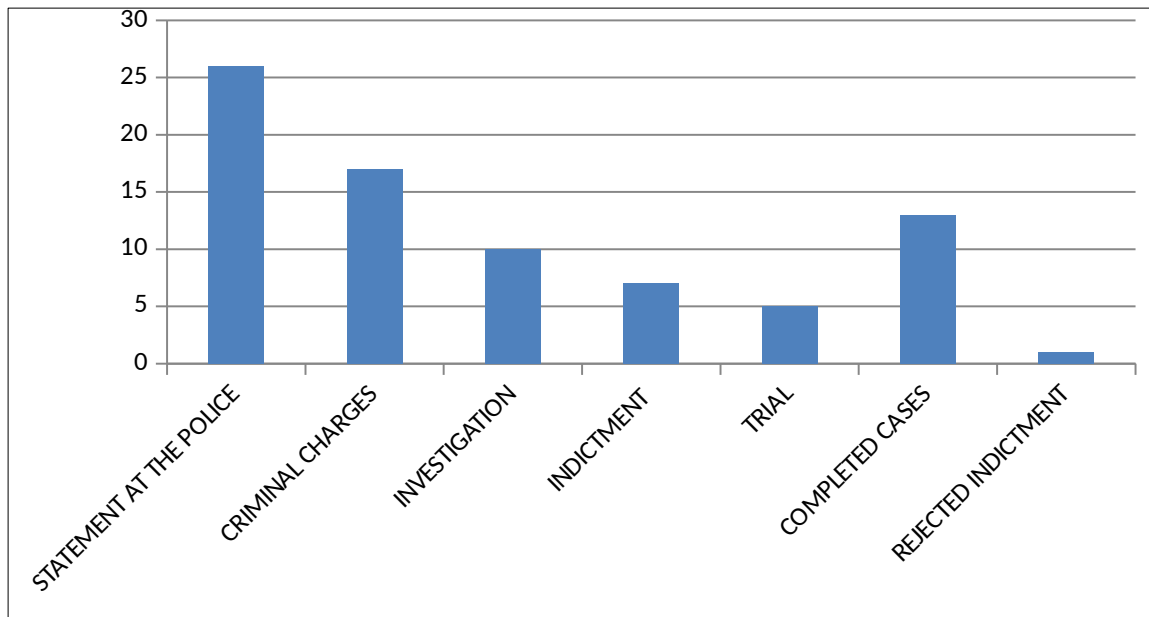
5. Preliminary results of the research on the needs of victims of criminal/misdemeanor offenses

By analyzing the questionnaires collected on the basis of the qualitative method, 50% of interviewees received instruction on the rights of victims, 25% of them understood the received instruction, while others received further clarifications from civil society organizations, the police and the state attorney's office. 34% of the interviewees received psychological support, but through the explanation of the answers it is understood that they also experience legal aid as a form of psychological support, which demonstrates a specific perception of aid in general; therefore, legal aid can be emotional or psychological, that is, it can be perceived like that, indicating the need for unification of services. None of the interviewees achieved the expert assistance of a counselor, nor attorneys at the expense of budget funds. Only two interviewees had the right to closed (in-camera) hearing and video-link testimony. These results are expected outcome, given that the majority of interviewees are in pre-trial phase of the criminal proceedings, immediately after the perpetration of the criminal offense, and that their interviewers were the first persons who provided them with detailed information on the rights that can be exercised, the process of obtaining these rights and the competent authorities.

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Office for Cooperation with NGOs



Picture 1- The stage of criminal proceedings (N=52)

During the interviews, some of the interviewees presented their experience and attitudes towards institutions which are conducting criminal proceedings; on the one hand, we have a very negative perception of the judiciary (the system is corrupt, it goes in favor of perpetrators...), on the other hand we see positive experiences (one interviewee has experienced a misdemeanor judges as a psychologists and a reasonable people that were able to understand who is the offender and who is the victim). When it comes to police procedures, there is a need for human treatment and education of the police, and the urgent establishment of a Department that will provide psychological and legal assistance, because without the legal assistance the victim is afraid to call the police, or is afraid that she/he would be considered as a defendant (the police is preventing the reporting of violence because the victim is turned into a second defendant).

To the question: “Which form of assistance and support would you like to achieve and from whom do you expect such form of aid?” interviewees emphasized that it is extremely important for them to get acquainted with the rights, as well as to receive assistance when filing a criminal offense at a police station, social assistance from the state, feedback on the course of the proceedings, a better witness protection mechanism (avoiding encounter with the defendant), advisory assistance and provided emotional support for the suffered fear,

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GOVERNMENT OF THE REPUBLIC OF CROATIA
Office for Cooperation with NGOs

emotional and psychological assistance when filing a criminal offense, more humanity from the police officers, information available on the Internet, more urgent actions of the institutions, achieving legal and psychological assistance when witness is presenting evidence to the police, free legal aid and advice, protection, delivery of the verdict, financial compensation from the state budget, advance payment for the costs of testimony, obtaining an assignee or a lawyer, more efficient work of the Centers for social welfare, instructions on all the rights and progress of the proceedings in one place.

Recommendations:

- 1. To implement Directive 2012/29/EU into national legislation of the Republic of Croatia in full relevance and reach the rights of victims of criminal and misdemeanor offenses;**
- 2. To edit and adopt the Action Plan for the victims and witnesses support as a relevant development strategy paper of a National Strategy as soon as possible, clearly define the activities, deadlines, responsible authorities and stakeholders activities, funding and resources, and financial and capacitive sustainability;**
- 3. To promote and distribute the National Strategy to all stakeholders who are in contact with victims and witnesses and work on an analysis of the existing strategy so that it can be improved, aligned with international and national norms, good practice examples and European Court verdicts, as well as analyzes of CSOs;**
- 4. To continue development of support system, expanding horizontally to the state attorney, police and other offices and agencies that are dealing with witnesses and victims of crime;**
- 5. To empower civil society organizations to work with victims and witnesses, to cooperate and educate each other, as well as to educate officials and state bodies, while cooperating on the development of new projects;**
- 6. To strengthen the human and technological capacities of those who are daily in contact with victims of crime;**
- 7. To decentralize the support system to smaller entities and to provide cheap or free legal, informative and psychosocial support to citizens - victims and witnesses of criminal offenses from rural areas or regions that are not well connected with centers.**

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