

## STATUS AND RIGHTS OF VICTIMS OF CRIME IN REPUBLIC OF CROATIA

*Documenta* – Centre for dealing with the past, Center for peace and nonviolence from Osijek, White circle of Croatia from Split and Victim and witness support service from Vukovar have been implementing the project „Rights, support, protection and compensation to victims of crime“ for the purpose of contribution of the implementation of the Directive 2012/29/EU on the minimal standards of right, support and protection of victims of crime and the Directive 2004/80/EC on the compensation of victims of crime. Through interviews and meetings with victims of war crimes, hate crime, domestic violence and discrimination, we have come to the conclusion that there is still large number of victims who are not sufficiently informed about their rights, while the system of free legal aid has proved to be ineffective in practice, due to insufficient support from the state, as well as the unsustainability of existing mechanisms through the activities of CSOs and the unwillingness of attorneys to accept more complicated cases due to reduced fees for their work. In the discrepancy between valid norms and the real need for human rights protection, the real, living people, victims of human rights violations are often overlooked.

The time period covered in this report, 2017 and the first half of 2018, was marked with the improvement of the legal framework for victim protection through the ratification of the Istanbul Convention, the full implementation of the Directive 2012/29/EU, with Amendments to the Criminal Procedure Act and the adoption of a new Law on Protection from Domestic Violence. The verdicts issued by European court of human rights in cases against Republic of Croatia, gave the national authorities important guidelines for better application of protection of the convention rights of the victims. In early 2018. a program supported by the Ministry of justice was launched to develop and expand the network of support to victims of crime through cooperation and capacity building of civil society organizations.

Also, positive developments have been overshadowed by the lack of public campaign that would involve all citizens, and through the conducted research on the needs of crime victims we still notice the lack of the right to clear and complete information. This is reflected in a small number of applications for financial compensation for victims of serious criminal offenses, and there is concern about the even smaller number of applications for modest financial compensation. A small number of requests, as well as positive resolutions are also visible in the administrative procedure for exercising the rights of sexual violence in war. Court proceedings for compensation of damages, based on the objective responsibility of the Republic of Croatia, initiated by direct or indirect victims of war crimes are still linked with convictions in the criminal proceedings, or with the lack of them, and with too inflexible and unfounded interpretations of the limitation period for initiating the compensation procedure. The ultimate consequence of unsuccessful litigation, results in the costs of litigation being

charged, and even enforcements on the only property of the applicant for the compensation.

Through monitoring of war crimes trials, as well as of other crimes, we have noticed that the victim's full role has yet to be realized and that during the main hearing the victim is only acquainted with the rights to file a property claim, while only sporadically with the possibility of monitoring the trial, the right on a counselor, or the right to receive a court decision terminating the proceedings. Extremely important role of victim information and guidance is provided by the victim and witness support services established in some of the county courts.

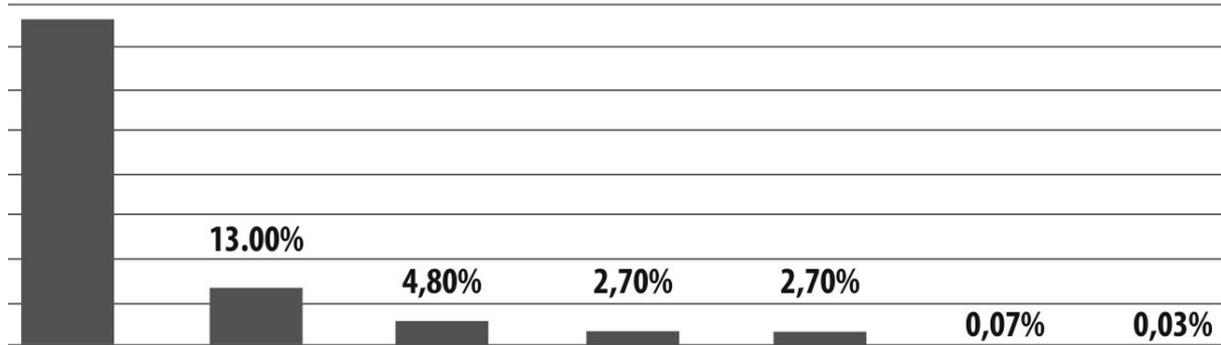
With this report we want to present the results of our work and to encourage further development of support and realization of the rights of the victims of crime, through future legislative activities of the Croatian Parliament and full implementation of existing laws in accordance with EU Directives. The findings of this report are based on the activities carried out within this program: educations of CSOs involved in the promotion and protection of human rights, professionals which are in contact with victims, monitoring of trials, findings of the research on the needs of victims of crime, as well as on the past activities and experiences in dealing with victims. The report is made up of 3 parts and provides texts that follow the legal basis of the implementation of Directive 2012/29 /EU on minimum standards of rights, support and protection of victims of crime and Directive 2004/80/EC on Compensation for Victims of Crime, the analysis of their implementation in practice by examining the rights and problems of particular vulnerable groups, monitoring trial reports with accent on the position of victims and witnesses, and presentation of research results with conclusions.

When we are vulnerable, we are completely exposed and unsafe. But risk acceptance, bold confrontation with insecurity and emotional exposure must not be equated with weakness. Victims of crime should be ensured with a "real and appropriate role" in criminal and other proceedings by taking measures which will secure that victims are treated with due respect for their human dignity and to be recognized in sense of their rights and legitimate interests as well as providing vulnerable victims with the right to a special procedure that best suits their circumstances.

According to published data of the Ministry of the Interior of the Republic of Croatia, during 2017, there were 83,047 criminal offenses, which represent a decrease in the total crime by 3% compared to the previous year. For 54 246 criminal offenses, criminal proceedings were initiated *ex officio*, for 8802 criminal offenses the proceeding was not initiated due to the absence of the victim's/injured party's proposal, and 19 999 criminal offenses were initiated by a private lawsuit. The share of juvenile offenses in overall crime was 9.7%. Property crimes make up 70.3% of general crime.

The graph shows an overview of criminal offenses for which the proceedings were initiated *ex officio* during 2017.

**76.70%**



The total number of victims was 52 028 (both legal and natural persons), and regarding the age and sex structure of victims, there was 21,142 men and 17,680 women, with the largest percentage in the age group over 60, so therefore we paid special attention to the vulnerable groups - the elderly. At the same time, there was 5446 juvenile victims.

By joining the European Union, in Republic of Croatia, the Law on financial compensation to the victims of crime (OG 80/08, 27/11) entered into force. The European Convention on Compensation for victims of violent crimes, issued within the Council of Europe in 1983, was the basis for this law and it is founded on the theory of state solidarity with victims rather than state accountability to the victim. Directive 2004/80/EC on Compensation for Victims of Criminal Offenses has stipulated not only that the state must have a system of compensation, but that it must have a government bodies which are dealing with compensation, and must inform the victim of those rights. This is the minimum that has been achieved at the EU level. Compensation can be realized by citizens and persons who have residence in the Republic of Croatia, as well as by citizens and persons with residence in EU. There is a possibility that the compensation will be rejected or reduced, regarding the contribution of the injured party, i.e. the behaviour of the immediate victim before, during and after the crime, for example, if the person was participant in the criminal activities. According to statistical data of the Ministry of Justice of the Republic of Croatia, since the beginning of the implementation of the Law on financial compensation to the victims of crime, a total of 207 requests were received, 27 of which were partially adopted and three were fully adopted. The most frequent compensation for the victims of criminal offenses was the cost of funeral expenses and lost earnings. The fact is that in the financial aspect of protection, expectations have not been met, while the injured parties point out the complexity of the procedure, long duration, problems of language barriers, the lack of legal aid and problems of compensation system. The biggest unknown in the practical implementation of the Directive 2012/29/EU and the Law on Amendments to Criminal Procedure Act/17 is found in the Institute of the individual assessment of the victim's right, which is introduced in the chapter 4 „Protection of victims and recognition of victims with special protection needs.“

The initiative of the European Union is aimed at respecting the rights of all victims of criminal acts and guaranteeing the same treatment for all persons who are in the role of the victim. There are certain categories belonging to a group of particularly vulnerable victims due to their personal characteristics or because of the nature of the criminal offense. Directive 2012/29/EU and the Law on Amendments to Criminal Procedure Act/17, along with a directory of basic rights of victims, prescribe additional rights for the following vulnerable groups: children, victims of criminal offenses against sexual

freedom and trafficking, but also for victims who acquired additional rights after an individual assessment has been carried out.

Victims of criminal acts largely require legal, psychological and emotional help, at any stage of proceedings they are part of, and regardless of the time distance since the crime has been committed.

Also, it should be emphasized that victims in court proceedings face numerous challenges and there is general consensus that there is a common need to further strengthen the victim's position as a prosecutor or an injured party. It is worth pointing out that better education on discrimination, hate crime and hate speech is needed in general, as well as strengthening the preventive purpose of sanctioning through appropriate punishment of perpetrators and compensation of victims.

## FINDINGS OF THE CONDUCTED RESEARCH

Although the position of victims of crime in Croatia is good regarding legal and institutional regulations, especially given the existence of clear obligations stemming from the Directive 2012/29 /EU, there seem to be many elements that require significant improvements. This research, as well as experience from practice, show that the work of the judicial and police authorities which are in contact with victims is crucial, and depending on it, the needs and the rights of the victims that are legally guaranteed, are being (or not) realized. Of course, to a large extent the realization depends on the victims themselves, their awareness and willingness to participate in the realization of their rights, and it is the level of awareness among victims which is still low. In addition, the level of understanding of the received information also indicates shortcomings in converting legal texts into instructions that would be completely clear to the victims, as the research results show that only slightly more than half of those who receive information can actually fully understand it. This goes for the level of written instructions, but also for the possibilities, primarily of the police officers, to make victims aware of their rights in a satisfactory manner. This indicates the need of education of all included stakeholders, but also a need to strengthen the human and technological capacities of those who are in daily contact with victims of crime. Also, sensitizing officers who come into contact with victims is one of the great tasks facing the Croatian judiciary and the police as a whole.

This first moment of getting acquainted with own rights and the results that arise from this part of research, also seems to be the most indicative in terms of the rest of results of the research.

One must not forget the role of CSOs whose work is more than efficient, especially in terms of providing information, but also in providing legal, psychological and emotional support. In that sense, more resources and sufficient human resources should be provided, as we have seen in the research, CSOs support the system in many ways and without their activities, the situation would be much more difficult.

The fact remains that a certain number of questionnaires remains unanswered, which can certainly be attributed to a lack of awareness among the victims, but also to the situation in which our researchers were forced to ask questions to victims which no longer remember all the data from the proceedings they participated in. Also, this was caused by the sporadic necessity for the questionnaires to be completed through indirect consultation of the documentation (through conversations with lawyers and other CSOs providers of support to victims of crime)

and in such cases some specific insights were left out. But regardless of this, the main indicators and trends that we present are visible and suggest the general situation when it comes to the position of victims of crime in this moment.

At the very end, it remains to be concluded that research has shown that at all levels of realization of their own rights, support, protection and compensation, the victims encounter limitations and that the future steps require the detailed, proactive and careful action of the state and its institutions in order to overcome all these barriers.

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