**Project „ARVID – Advancing Access to Rights under Victims' Directive for Persons with Disabilities“ is implemented by Croatian Law Centre in partnership with Ministry of Justice and Public Administration (HR), Ombudsman for Persons with Disabilities (HR), Victim and Witness Support Association (HR), Peace Institute (SI) and Altra Association (SI).**

# *Zbornik projektnih materijala*

## *ARVID – Bolji pristup pravima iz Direktive o žrtvama za osobe s invaliditetom*

# *Zbornik projektnih materialov*

## *ARVID – Izboljšanje dostopa do pravic v skladu z Direktivo o žrtvah za osebe z ovirami*

# *Compendium of Project Materials*

## *ARVID - Advancing Access to Rights under Victims' Rights Directive for Persons with Disabilities*

## *Zagreb/Ljubljana, rujan/ september /September 2021*

Uvodna napomena

Ovaj Zbornik sadrži sve rezultate postignute na projektu "ARVID - Bolji pristup pravima iz Direktive o žrtvama za osobe s invaliditetom" u formi pisanih materijala: izvještaje (nacionalne i komparativne) s preporukama (nacionalnim i zajedničkim), sažetke sa skupova/sastanaka na kojima su raspravljane preporuke s relevantnim dionicima, informativne materijale za osobe s invaliditetom te edukativne/trening materijale, posebno za dionike pravosudnog sustava, posebno za udruge osoba s invaliditetom i druge dionike koji podržavaju žrtve u pravosudnom sustavu.

This project was funded by the European Union's Justice Programme (2014-2020), co-financed by the Office for Cooperation with NGOs of the Government of the Republic of Croatia and by the City of Zagreb.
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S obzirom na to da je projekt transnacionalan, izvodio se u Hrvatskoj i Sloveniji, Zbornik smo podijeli u tri glavna dijela: 1. nacionalni rezultati postignuti u Hrvatskoj, 2. nacionalni rezultati postignuti u Sloveniji i 3. rezultati koji su zajednički za obje zemlje te predstavljaju moguću implikaciju rezultata i na europskoj razini. Svi materijali prevedeni su i s hrvatskog i sa slovenskog na engleski jezik koje prijevode smo također uključili u ovu publikaciju.

Materijale su izradili projektni stručnjaci, glavna stručnjakinja (Elizabeta Ivičević Karas) i nacionalni eksperti (Zoran Burić i Katarina Vučko), uz sudjelovanje projektne istraživačice (Daniela Širinić) i nacionalne istraživačice za Sloveniju (Veronika Bajt), te doprinosa svih projektnih partnera kao i stručnjakinja zaposlenih u HPC-u (Heidi Eterović i Sare Kaurin). Za izradu informativnog materijala za osobe s invaliditetom korišten je materijal izrađen u sklopu projekta "VICATIS - Unapređenje sustava podrške iz perspektive žrtava kaznenih djela" (financiran od strane Programa za pravosuđe Europske Unije (2014 – 2020) i sufinanciran od strane Ureda za udruge Vlade Republike Hrvatske).

## Uvodna opomba

Ta zbornik vsebuje vse rezultate, dosežene v projektu "ARVID - Izboljšanje dostopa do pravic v skladu z Direktivo o žrtvah za osebe z ovirami " v obliki pisnega gradiva: poročila (nacionalna in primerjalna) s priporočili (nacionalnimi in skupnimi), povzetki sestankov, na katerem smo z deležniki razpravljali o priporočilih, informativnem gradivu za osebe z ovirami ter izobraževalnem gradivu / gradivu za usposabljanje, posebej za akterje pravosodnega sistema ter posebej za združenja oseb z ovirami in druge zainteresirane strani, ki podpirajo žrtve v pravosodnem sistemu.

Glede na to, da je projekt transnacionalen, saj je bil izveden na Hrvaškem in v Sloveniji, smo Zbornik razdelili na tri glavne dele: 1. nacionalne rezultate, dosežene na Hrvaškem, 2. nacionalne rezultate, dosežene v Sloveniji, in 3. rezultate, ki so skupni obema državama in predstavljajo možno implikacijo rezultatov tudi na evropski ravni. Vsa gradiva so prevedena iz hrvaščine in slovenščine v angleščino, kar smo vključili tudi v to publikacijo.

Materiale so pripravili projektni strokovnjaki, glavna strokovnjakinja (Elizabeta Ivičević Karas) in nacionalni strokovnjaki (Zoran Burić in Katarina Vučko), v sodelovanju z raziskovalko projekta (Daniela Širinić) in nacionalno raziskovalko za Slovenijo (Veronika Bajt) ter prispevki vseh projektnih partnerjev ter strokovnjakov, zaposlenih v HPC (Heidi Eterović in Sara Kaurin). Za izdelavo informacijskega gradiva za osebe z ovirami je bilo uporabljeno gradivo, pripravljeno v okviru projekta "VICATIS - Izboljšanje podpornih mehanizmov z vidika žrtev kaznivih dejanj" (financiran iz programa Evropske unije za pravosodje (2014-2020), sofinanciral pa ga je Urad za sodelovanje z nevladnimi organizacijami Vlade Republike Hrvaške).

## Introductory note

This Compendium contains all the major outputs from the project "ARVID - Advancing Access to Rights under Victims' Rights Directive for Persons with Disabilities": reports (national and comparative) with recommendations (national and joint), summary of discussions held at round table/advocacy meetings with stakeholders about the project recommendations, information

materials for persons with disabilities and educational/training materials for stakeholders in the justice system and for civil society organizations representing persons with disabilities and other stakeholders supporting victims in the justice system.

Considering that the project is transnational, and that it was implemented in Croatia and Slovenia, we organized the Compendium into three main sections: 1. national outputs produced in Croatia, 2. national outputs produced in Slovenia and 3. outputs that are common to both countries and represent a possible implication of the results at the European level as well. All the materials have been translated from Croatian and Slovenian into English. English translations are also included in this publication.

The materials were prepared by the project experts, Key Project Expert (Elizabeta Ivičević Karas) and National Experts (Zoran Burić and Katarina Vučko), with the participation of Project Researcher (Daniela Širinić) and National Project Researcher for Slovenia (Veronika Bajt), and contributions of all project partners, as well as experts working at the CLC (Heidi Eterović and Sara Kaurin). For the development of information material for persons with disabilities, the material developed within the project "VICATIS - Improving the support system from the perspective of victims of crime" was used (funded by the European Union's Justice Programme (2014-2020) and co-financed by the Office for Cooperation with NGOs of the Government of the Republic of Croatia).

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# *PRVI DIO / PART A*

## *I. PROJEKTNI REZULTATI ZA HRVATSKU*

## *1. Izvještaj o provedenom istraživanju s preporukama*

### *1.1. Opis projekta*

Projekt "ARVID – Bolji pristup pravima iz Direktive o žrtvama za osobe s invaliditetom" financiran je od strane Europske unije putem Programa za pravosuđe, a provodi se u Hrvatskoj i Sloveniji. Koordinator projekta je Hrvatski pravni centar, a partneri su Ministarstvo pravosuđa i uprave RH, Pravobraniteljica za osobe s invaliditetom (HR), Udruga za podršku žrtvama i svjedocima (HR), Mirovni inštitut (SI) i Udruga Altra (SI). Pravobranitelj za ljudska prava Republike Slovenije podupire projekt.

Namjera projekta je istražiti razinu sudjelovanja osoba s invaliditetom (dalje u tekstu: OSI) kao žrtava i svjedoka u kaznenopravnim postupcima, kao i moguće probleme koji ograničavaju njihovo potpuno sudjelovanje.

Rezultati istraživanja poslužit će za:

- formuliranje i zagovaranje boljih usluga podrške za osobe s invaliditetom, uključujući i sve potrebne prilagodbe; te
- razvoj znanja i alata koji će izravno služiti osobama s invaliditetom koje su žrtve kaznenih djela, i stručnjacima i institucijama zaduženima za osiguranje pomoći tim osobama u ostvarivanju prava koja im jamči Direktiva Europskog Parlamenta i Vijeća od 25. listopada 2012. o uspostavi minimalnih standarda za prava, potporu i zaštitu žrtava kaznenih djela te o zamjeni Okvirne odluke Vijeća 2001/220/PU (dalje u tekstu: Direktiva o žrtvama).

U projektu su predviđene sljedeće skupine aktivnosti:

1. Anketno istraživanje i intervjui s osobama s invaliditetom, te upitnik s predstavnicima udruga koje ih zastupaju radi identifikacije problema s kojima se ove osobe suočavaju u pristupu svojim pravima kao žrtava kaznenih djela, izrada Završnog izvještaja na temelju provedenih istraživanja i preporuka za unaprjeđenje sustava podrške žrtvama kaznenih djela koji su ujedno i osobe s invaliditetom,
2. Izrada informacijskih materijala za osobe s invaliditetom o tome kako ostvariti svoja prava kao žrtava kaznenih djela,

3. Moduli za obuku: (a) službenih dionika pravosudnog sustava zaduženih za pojedinačne aspekte ostvarivanja prava osoba s invaliditetom u svojstvu žrtava kaznenih djela; (b) predstavnika krovnih udruga osoba s invaliditetom i drugih organizacija koje pružaju potporu osobama s invaliditetom u ostvarivanju svojih prava temeljem Direktive o žrtvama. Bit će izrađeni i informacijski moduli i materijali koje će koristiti pravobraniteljske organizacije u HR i SI u informiranju službenih dionika o pravima osoba s invaliditetom u pravosudnim postupcima.
4. Zagovaračke aktivnosti, koje će uključivati međunarodnu konferenciju, konzultativne sastanke s relevantnim dionicima u Hrvatskoj i Sloveniji radi rasprave i usvajanja preporuka za unaprjeđenje sustava podrške žrtvama kaznenih ili prekršajnih djela koji su ujedno i OSI te zalaganja za usvajanje poboljšanih politika i praksi vezanih uz pristup žrtava OSI pravima zajamčenim Direktivom o žrtvama, izradu informacijskih materijala, te njihovu diseminaciju u uključenim zemljama i u EU.

Kada je riječ o osobama s invaliditetom koje su žrtve kaznenih djela i prekršaja, nedostaju sveobuhvatni podaci na razini EU-a i država članica, uključujući Hrvatsku i Sloveniju. U Hrvatskoj su dostupni samo podaci o nasilju u obitelji, gdje je u 2016. godini evidentirano 92 OSI kao žrtve, što čini 0,74% od ukupnog broja žrtava. Tako nizak broj ukazuje na neadekvatno vođenje evidencije. Zbog nedostatka službene statistike nije moguće precizno procijeniti probleme s kojima se osobe s invaliditetom suočavaju u ostvarivanju svojih prava kao žrtve. U Europi ima oko 80 milijuna osoba s invaliditetom. Čak i ako bismo pretpostavili da je broj osoba s invaliditetom žrtvama kaznenih djela/prekršaja proporcionalan njihovoj učestalosti u općoj populaciji (iako postoje neki dokazi o višim stopama viktimizacije), potrebe ove skupine zaslužuju sustavni pristup. Smatra se da je ovo još važnije s obzirom na dobro dokumentirane prepreke s kojima se osobe s invaliditetom susreću u svim aspektima života. European Disability Forum (EDF) naglašava osiguravanje smislene i dostupne komunikacije, podrške i informacija kako bi se osiguralo učinkovito sudjelovanje svih osoba s invaliditetom u svim fazama sudskog postupka.

Ovim se projektom predlaže sustavni pristup poboljšanoj provedbi Direktive o žrtvama na predmetnu populaciju. Kao što je prethodno spomenuto, temeljna aktivnost bit će empirijsko istraživanje, kako bi se riješio problem nepostojanja gotovo bilo kakvih relevantnih podataka koji se odnose na sudjelovanje žrtava OSI u kaznenom i prekršajnom postupku u Hrvatskoj i Sloveniji. Ta analitička aktivnost ovoga projekta omogućit će popunjavanje praznine u podacima koja je bila jedna od važnih prepreka razvoju i usvajanju odgovarajućeg pristupa pružanju podrške i osiguranju pristupa pravosuđu žrtvama OSI u punoj provedbi Direktive o žrtvama.

### *1.2. Ciljevi istraživanja*

U razdoblju od 1. ožujka 2020. do 1. travnja 2021. Hrvatski pravni centar proveo je anketno istraživanje i strukturirane intervjue s osobama s invaliditetom koje su žrtve kaznenih djela, dvije

fokus grupe te zaprimio osam ispunjenih upitnika udruga osoba s invaliditetom. Cilj istraživanja bio je istražiti razinu sudjelovanja osoba s invaliditetom kao žrtava i svjedoka u kaznenopravnim postupcima, kao i moguće probleme koji ograničavaju njihovo potpuno sudjelovanje. Anketiranje pozivatelja Nacionalnog pozivnog centra za žrtve kaznenih djela i prekršaja (NPC) provedeno je s ciljem ispitivanja zastupljenosti osoba s invaliditetom među žrtvama kaznenih djela i prekršaja.

Anketni upitnik poslužio je za uzorkovanje ispitanika za drugi dio istraživanja. Drugi dio istraživanja osmišljen je kao strukturirani intervju s osobama s invaliditetom radi identifikacije problema s kojima se ove osobe suočavaju u pristupu svojim pravima kao žrtava kaznenih djela, i preporuka o njihovom otklanjanju. Zbog smanjenog broja ispitanika intervjua u odnosu na planirano, kao dodatni izvor podataka o predmetu istraživanja, provedene su dvije fokus grupe s organizacijama civilnoga društva koje pružaju besplatnu pravnu pomoć općoj populaciji te s udrugama osoba s invaliditetom koje pružaju pomoć i podršku svojim članovima.

Kako je projektom i planirano, u okviru istraživanja provedeno je i intervjuiranje udruga koje zastupaju osobe s invaliditetom i to način da im je elektroničkom poštom poslan upitnik, koje su predmetne udruge ispunile i dostavile.

Upitnik za udruge zamišljen je kao komplementarni izvor informacija o položaju osoba s invaliditetom u pravosuđu i mogućim preprekama u njihovom ostvarivanju prava temeljem Direktive o žrtvama, ali i kao prilika za početak istraživanja moguće uloge tih organizacija u pružanju podrške žrtvama.

### *1.3. Metode istraživanja, uzorak i ispitanici*

U razdoblju od 1. ožujka do 31. kolovoza 2020. godine, Nacionalni pozivni centar za žrtve kaznenih djela i prekršaja (NPC) provodio je anketiranje pozivatelja u sklopu projekta ARVID s ciljem ispitivanja zastupljenosti osoba s invaliditetom među žrtvama kaznenih djela i prekršaja. Anketni upitnik poslužio je za uzorkovanje ispitanika za drugi dio istraživanja. U tom razdoblju, NPC je zaprimio 597 poziva. Od 597 poziva, njih 66% (396) NPC-u je bilo upućeno od strane neposrednih žrtava, ciljne populacije za uključivanje u anketiranje u sklopu projekta ARVID. Od ukupno 597 zaprimljenih poziva, anketirano je njih 131 što iznosi 21,29%. Od ukupnog broja neposrednih žrtava kojima je NPC pružio podršku u zadanom razdoblju, anketirano je njih 33%.

Osobama koje su vodile razgovore je dopušteno da, kada procijene da postoji razlog zašto pozivatelja nije primjereno anketirati, to ne naprave, međutim, nužno je bilo da prilikom popunjavanja obrasca navedu razlog zbog kojeg pozivatelj nije anketiran. Najčešći razlog zbog kojeg pozivatelji u pojedinim pozivima nisu anketirani bio je taj što su već sudjelovali u anketi u nekom od ranijih poziva. Pozivatelji koji zovu više od jednom i učestali pozivatelji uvijek čine velik dio ukupnog broja poziva NPC-a, pa tako i u proteklom razdoblju. Druga najčešća skupina su pozivatelji koji nisu žrtve kaznenih djela i prekršaja. Tu se najčešće radi ili o učestalim pozivateljima koji zovu NPC, no nisu stranke u kaznenim niti prekršajnim postupcima, ali i o

svjedocima, počiniteljima i pozivateljima koji zovu zbog pojedine informacije ili emocionalne podrške, a nisu žrtve.

Od ukupnog broja anketiranih pozivatelja, njih 70,99% (93) je izjavilo kako nema invaliditet niti oštećenje zdravlja, dok je njih 29,01% (38) izjavilo da ima. Najveći broj pozivatelja koji su se izjasnili kako imaju oštećenje zdravlja ili invaliditet su bili osobe s tjelesnim oštećenjima, dok je najmanje bilo onih s intelektualnim oštećenjima i oštećenjima sluha. Niti jedan pozivatelj nije imao oštećenje vida. U kategoriju „Ostalo“ unosili su se odgovori pozivatelja koji navode da imaju invaliditet ili oštećenje zdravlja, ali ne spadaju unutar ponuđenih kategorija. Takvi pozivatelji su odgovorili kako imaju sljedeće probleme: „kronične probleme sa štitnjačom“, „artritis i kronične srčane probleme“, „kroničnu bolest koju pozivateljica nije željela imenovati“ i „leukemiju“.

Najveći broj pozivatelja koji su se izjasnili kao osobe s invaliditetom ili oštećenjem zdravlja, ali i kao žrtve kaznenog djela/prekršaja, žrtve su nasilja u obitelji. Navedeno nije neobično s obzirom na to da NPC najčešće kontaktiraju upravo žrtve prekršaja obiteljskog nasilja ili kaznenog djela nasilja u obitelji. Najveći broj pozivatelja koji su se izjasnili kao osobe s invaliditetom ili oštećenjem zdravlja te kao žrtve kaznenog djela/prekršaja (37), prijavio je policiji ili DORH-u kazneno djelo/prekršaj zbog kojeg je potražio pomoć NPC-a. Tek jedan pozivatelj u vrijeme poziva nije bio prijavio kazneno djelo/prekršaj.

Kako je cilj drugog dijela istraživanja bio provesti iscrpniji intervju s ispitanicima o njihovim iskustvima sudjelovanja u kaznenim/prekršajnim postupcima kao osoba s invaliditetom ili oštećenjem zdravlja, prikupljale su se i informacije o pozivateljima koji su bili voljni sudjelovati kao ispitanici u drugom dijelu istraživanja. Bilo je potrebno prikupiti telefonski broj pozivatelja koji su zainteresirani sudjelovati kako bi mogli stupiti u kontakt s njima i provesti intervju.

Na sudjelovanje u drugom dijelu istraživanja pristalo je tek 16% pozivatelja, odnosno 6 osoba, dok je njih 32 odbilo. Relativno nizak broj pozivatelja koji su pristali sudjelovati u drugom dijelu istraživanja može se dijelom pripisati djelokrugu i anonimnosti linije. Linija NPC-a je linija za žrtve kaznenih djela i prekršaja te su pozivatelji često u iznimnim emocionalnim stanjima, prestrašeni, nepovjerljivi i nerijetko preplavljeni situacijom u kojoj su se našli. Takvi su pozivatelji u pravilu "uronjeni" u vlastitu situaciju te se ne žele obvezati na ponovan kontakt. Osim toga, linija NPC-a pozivateljima nudi apsolutnu anonimnost što je mnogima ključno kod traženja pomoći te nisu voljni otkriti svoje podatke niti povratno stupiti u kontakt.

Uz uzorkovanje na temelju prethodno provedene ankete, ispitanici su se za drugi dio istraživanja regrutirali i putem Ureda pravobraniteljice za osobe s invaliditetom (POSI), svih Centara za socijalnu skrb (CSS) u Republici Hrvatskoj koji su kontaktirani posredstvom Ministarstva rada, mirovinskog sustava, obitelji i socijalne politike (nadležnog tijela za poslove socijalne skrbi), višekratnog kontaktiranja organizacija civilnog društva koje se bave problemima osoba s invaliditetom, kao i organizacija koje su članice Mreže podrške i suradnje žrtvama i svjedocima kaznenih djela. U razdoblju do 25. siječnja 2021. provedeno je 14 strukturiranih, dubinskih intervjua. Prije provedbe intervjua, 8 intervjuerki prošlo je dvosatnu online edukaciju o pravima žrtava kaznenih djela, ciljevima istraživanja i detaljno su upućeni u protokol za provedbu intervjua.

Nakon prvog kruga intervjua, identificirane su neke nejasnoće u protokolu, prvenstveno vezane uz razumijevanje detalja kaznenog postupka od strane intervjuerki, koje su većinom edukacijsko-rehabilitacijskog usmjerenja i stručnjakinje su za provedbu intervjua s osjetljivim skupinama, ali ne i pravnice. Zato je organiziran još jedan kratki trening sa stručnjakom za kazneno pravo. Svaki intervju je transkribiran, te je za svaki intervju pripremljen i detaljan izvještaj s opažanjima intervjuerki.

Odaziv na intervju je bio niži nego što je inicijalno planirano pa su provedene i dvije fokus grupe kako bi se popunile praznine u razumijevanju problema s kojima se suočavaju osobe s invaliditetom koje su žrtve zločina.

Tijekom ožujka 2021. provedene su dvije fokus grupe, virtualno, sudjelovanjem putem rasprave:

- U prvoj fokus grupi, održanoj 19. ožujka 2021., sudjelovalo je pet predstavnika organizacija civilnog društva koje pružaju besplatnu pravnu pomoć općoj populaciji, uključujući i osobe s invaliditetom (OSI) – predstavnici Hrvatskog pravnog centra, Pravne klinike Pravnog fakulteta u Zagrebu, Centra za mirovne studije, Centra za mir, nenasilje i ljudska prava Osijek i organizacije SOS - Rijeka - centra za nenasilje i ljudska prava, koji su iznijeli iskustva i zapažanja iz svojih organizacija o temama i teškoćama povezanih s pristupom pravosuđu i pravima osoba s invaliditetom.
- U drugoj fokus grupi, održanoj 24. ožujka 2021., sudjelovalo je šest predstavnika organizacija civilnog društva koje pružaju pravnu pomoć i druge oblike podrške žrtvama koje su ujedno i osobe s invaliditetom – predstavnici iz Saveza društava multiple skleroze Hrvatske (SDMDH), Hrvatskog saveza udruga tjelesnih invalida (HSUTI), Udruge invalida rada Zagreb (UIR Zagreb) te Zajednice saveza osoba s invaliditetom Hrvatske (SOIH), koji su iznijeli svoja iskustva i zapažanja budući da se radi o organizacijama koji pružaju pomoć i podršku svojim članovima, isključivo osobama s invaliditetom.

Nadalje, u razdoblju provedbe istraživanja upućeni su u dva navrata putem elektroničke pošte upitnici udrugama osoba s invaliditetom kako bi se prikupili podaci o kapacitetima tih udruga osoba za moguće preuzimanje veće uloge u podršci žrtvama među njihovim korisnicima i za suradnju s drugim tijelima, institucijama i organizacijama koje su dijelom kaznenog i prekršajnog pravosuđa. Putem upitnika su se namjeravala saznati ključna pitanja, koja utječu na mogućnost osoba s invaliditetom da pristupe svojim pravima kao žrtve te kako bi se prikupili prijedlozi o tome što bi trebalo učiniti kako bi pravosuđe bilo bolje prilagođeno osobama s invaliditetom.

Upitnici su poslani 12 udruga osoba s invaliditetom na nacionalnoj razini te je ih osam dostavilo ispunjene upitnike, i to: Savez društava multiple skleroze Hrvatske (SDMSH), Hrvatski savez slijepih (HSS), Udruga invalida rada Zagreba (UIR Zagreb), Hrvatski savez gluhih i nagluhih (HSGN), Hrvatski savez gluhoslijepih osoba "Dodir", Zajednica saveza osoba s invaliditetom

Hrvatske – SOIH, Hrvatske udruge paraplegičara i tetraplegičara (HUPT) i Hrvatski savez udruga osoba s intelektualnim teškoćama (Savez OSIT).

### *1.4 Rezultati*

Rezultati u okviru projekta provedenih istraživanja iznose se sljedećim redoslijedom: 4. 1. Rezultati intervjua s osobama s invaliditetom, 4. 2. Rezultati fokus grupa, 4. 3. Rezultati upitnika za udruge.

#### *1.4.1. Rezultati intervjua s osobama s invaliditetom*

Projektom je bilo predviđeno da dio pozivatelja iz prve faze istraživanja (anketiranje pozivatelja Nacionalnog pozivnog centra za žrtve kaznenih djela i prekršaja) koji su identificirani kao osobe s invaliditetom i koje su sudjelovale u sudskim postupcima u svojstvu žrtava kaznenih djela ili prekršaja, ukoliko pristanu, sudjeluju kao ispitanici u drugom dijelu istraživanja koje se provodilo u obliku intervjua. Kao što je već ranije u izvještaju istaknuto, samo je 6 osoba pristalo sudjelovati u drugom dijelu istraživanja, ali samom intervjuu su se u konačnici odazvale samo 3 osobe.

Potom se pokušalo doći do dodatnog broja ispitanika putem osobnih kontakta s kojima je već uspostavljena suradnja, kontakata s predstavnicima udruga koje pružaju pomoć i podršku žrtvama i udruga koje zastupaju osobe s invaliditetom (nacionalnim i lokalnim), posredstvom Pravobraniteljice za osobe sa invaliditetom (POSI), kontaktiranjem SOS telefonske linije za žene s invaliditetom žrtve nasilja SOIH-a (Saveza udruga osoba s invaliditetom), zatim organizacija članica Mreže podrške za žrtve i svjedoke te su na koncu poslani upiti svim centrima za socijalnu skrb u Republici Hrvatskoj posredstvom Ministarstva rada, mirovinskog sustava, obitelji i socijalne skrbi, Na ovaj je način uspostavljen kontakt s još 11 osoba s invaliditetom koje su sudjelovale u istraživanju kao ispitanice, i to 5 posredstvom POSI, 1 posredstvom Hrvatskog saveza gluhih i nagluhih (HSGN), 2 putem SOS telefona za žene s invaliditetom žrtve nasilja SOIH-a te 3 ispitanice iz Centra za socijalnu skrb Virovitica, Podružnice Obiteljski centar.

Naime, prilikom pokušaja pronalaska osoba koje bi bile voljne sudjelovati u drugom dijelu istraživanja, kao glavni problem se pokazala činjenica da i organizacije koje rade s ovom specifičnom skupinom (primjerice centri za socijalnu skrb) ne vode evidenciju podataka o korisnicima - OSI koji su bili žrtvama kaznenih djela ili prekršaja, već za takve korisnike imaju informacije koje saznaju sporadično, u okviru izvršavanja svojih javnih ovlasti.

Provedeno je 14 (od planiranih 20) strukturiranih intervjua s osobama s invaliditetom. 13 intervjua obavljeno je putem telefona ili video-veze, a 1 intervju obavljen je uživo. Ovakav je metodološki pristup bio nužan s obzirom da se ovaj dio istraživanja provodio u općepoznatim uvjetima epidemije. U nastavku se iznose rezultati provedenih intervjua. Izneseni rezultati praćeni su analizom pribavljenih podataka.

### a. Opći podaci

Sve intervjuirane osobe ženskoga su spola (14). S obzirom na vrstu invaliditeta, 9 ispitanica izjavilo je da imaju tjelesna oštećenja, 1 osoba višestruki invaliditet, 1 osoba tjelesno oštećenje i psihosocijalno odnosno mentalno oštećenje/invaliditet, 1 osoba psihosocijalno odnosno mentalno oštećenje/invaliditet, 1 osoba oštećenje sluha, a 1 ispitanica izjavila je da se ne smatra osobom s invaliditetom. S obzirom na dob, 2 ispitanice u dobi su od 30 do 40 godina, 2 u dobi od 40 do 50 godina, 4 u dobi između 50 i 60 godina, 4 u dobi između 60 i 70 godina, 1 u dobi između 80 i 90 godina, a za 1 ispitanicu nema podataka o dobi. S obzirom na geografsku rasprostranjenost, 5 ispitanica s područja je Grada Zagreba i Zagrebačke županije, 3 s područja Virovitičko-podravske županije, po 1 s područja Varaždinske, Šibensko-kninske, Osječko-baranjske, Istarske i Primorsko-goranske županije. Za 1 ispitanicu nema geografskih podataka.

Intervjuirane osobe izjavile su da su bile žrtve kaznenih djela i prekršaja koji uključuju nasilje. Ocjena pravne kvalifikacije ponašanja kojem su bile izložene temelji se na izjavi same osobe (o tome radi li se o kaznenom djelu ili prekršaju), kao i na temelju opisa događaja koje su intervjuirane osobe dale. Na temelju dobivenih podataka, može se zaključiti da se u 8 slučajeva radilo o kaznenom djelu, a u 6 slučajeva o prekršaju. Istraživanje je obuhvatilo žrtve sljedećih kaznenih djela: prijetnje (2), tjelesne ozljede, pokušaja silovanja i ubojstva, teške tjelesne ozljede, obiteljskoga i seksualnoga nasilja, silovanja, obiteljskog nasilja i krađe. U odnosu na prekršaje, istraživanje je obuhvatilo žrtve obiteljskoga nasilja (6).

U 3 slučaja postupak nije pokrenut, odnosno policija nakon zaprimanja kaznene ili prekršajne prijave nije poduzela radnje radi daljnjeg vođenja postupka. Od ta tri slučaja, u jednom se slučaju radilo o prijavi kaznenog djela, a u dvama slučajevima o prijavi prekršaja obiteljskog nasilja. Čini se da je u sva ta tri slučaja policija zaključila da ne postoje osnove za vođenje odgovarajućih postupaka. U 5 slučajeva postupak je u tijeku, a u preostalih 6 slučajeva postupak je okončan.

### b. U policiji

U 8 slučajeva žrtva je prvo kontaktirala policiju, u 1 slučaju policiju su pozvali susjedi, a u 2 slučaja članovi obitelji ispitanice (kćer i sin). U 2 slučaja ispitanica je prvo kontaktirala centar za socijalnu skrb, a u 1 od tih slučajeva i udrugu. U 1 slučaju ispitanica je prvo kontaktirala svoju odvjetnicu. Iz iznesenih podataka vidljivo je da je u velikoj većini slučajeva (11 od 14) policija prvo tijelo koje su ispitanice ili druge osobe (susjedi, članovi obitelji) kontaktirali uslijed nasilnog događaja. Samo u 3 slučaja prvo je kontaktirano neko drugo tijelo (centar za socijalnu skrb, udruga) ili osoba (odvjetnica).

U 7 slučajeva prvi kontakt policije i ispitanice događao se u policijskim prostorijama. U 5 slučajeva prvi je kontakt bio u domu ispitanice. U svim je tim slučajevima dom ispitanice ujedno bio i mjesto incidenta. U 2 slučaja se prvi kontakt događao na drugom (javnom) mjestu.

U 6 slučajeva je razgovoru policije i ispitanice, neovisno o tome gdje se razgovor odigravao, bila prisutna ispitanici bliska osoba (član obitelji, prijatelj, odvjetnik) kao potpora. U 7 slučajeva je ispitanica razgovarala s policijom bez prisutnosti osoba od povjerenja. U 1 slučaju razgovoru policije i ispitanice bila je prisutna osoba koja je izvršila nasilni čin prema ispitanici (suprug prilikom policijske intervencije u domu ispitanice u slučaju obiteljskog nasilja). Na temelju rezultata intervjua može se zaključiti da su policijski službenici omogućili ispitanicama da razgovoru, onda kada su ispitanice to željele, budu prisutne, kao potpora, i njima bliske osobe (osobe od povjerenja). Pri tom je nevažno mjesto održavanja razgovora (policijska postaja, dom ispitanice ili drugom mjesto).

Vezano uz pristup policijskim prostorijama, od 6 ispitanica koje su bile u prostorijama policije, njih 5 su izjavilo da nisu imale problema s pristupom policijskim prostorijama, dok su 2 izjavile da su imale problema. Jedna navodi da je imala otežan pristup prostorijama policije zbog većeg broja stepenica i odsutnosti prilaza za osobe s invaliditetom ili dizala, a druga da je imala problema s pristupom zbog većeg broja stepenica te da su joj dva policajca pomogla. Od onih koje nisu imale problema s pristupom policiji, jedna je navela da je to zbog toga što policijska postaja ima rampu za invalidska kolica. Iz dobivenih podataka možemo zaključiti da intervjuirane osobe nisu imale značajnijih problema s pristupom policijskim prostorijama, prije svega jer se značajan broj razgovora s policijskim službenicima odigravao u domu ispitanice ili drugom mjestu incidenta, ali i zbog toga što im je samima moguće kretati se stepenicama, kao i zbog toga što su prilikom pristupa policijskim prostorijama imale pomoć drugih osoba (pratnje ili policijskih službenika).

Ispitanice navode da su u 5 slučajeva od strane policijskih službenika obaviještene o pravima žrtava kaznenih djela i prekršaja, i to predajom pisane pouke o pravima. U preostalih 8 slučajeva ispitanice navode da nisu obaviještene o pravima, a u 1 slučaju je žrtva navela da se zbog šoka ne sjeća je li i o čemu obaviještena. Na temelju dobivenih podataka moguće je zaključiti da za neobavještavanje žrtava o pravima (8) postoji nekoliko razloga. U 3 slučaja se neobavještavanje o pravima može pripisati činjenici da su policijski službenici smatrali da ispitanica nije žrtva kaznenog djela ili prekršaja, i to zbog toga što se ne radi o takvom djelu. Budući da osoba, prema mišljenju policijskih službenika, nema status žrtve, nije postojala obveza da je policijski službenici obavijeste o pravima žrtve. U 1 slučaju je ispitanica o pravima žrtve obaviještena od strane svoje odvjetnice. Za preostalih 4 slučajeva moguće je samo spekulirati da problemi u vezi obavještavanja žrtve o pravima od strane policije mogu postojati u onim situacijama u kojima se kontakt žrtve i policije ne događa u policijskim prostorijama, već se radi o neplaniranim terenskim akcijama policije.

Vezano uz način na koje su obaviještene o pravima, od 5 ispitanica koje su odgovorile da su od strane policijskih službenika obaviještene o pravima žrtava, 4 su navele da je to učinjeno predajom pisane pouke o pravima, bez daljnjih objašnjenja, a samo 1 navodi da je o pravima obaviještena i da su joj ona objašnjena kroz razgovor. 4 ispitanice su odgovorile da im pouka o pravima koju su im dali policijski službenici nije bila dovoljno jasna, i to 3 zbog toga što predaju pouke o pravima nisu pratila nikakva daljnja objašnjenja, a 1 zbog toga jer se nalazila u stanju šoka. 1 ispitanica je

navela da joj je sve bilo jasno. Radi se o ispitanici koja je o pravima obaviještena kroz razgovor s policijskim službenicima.

Tijekom razgovora s policijom, neovisno o tome je li se događao u policijskoj postaji, domu ispitanice ili na drugom mjestu, 6 ispitanica je koristilo pravo na pratnju osobe od povjerenja. Uz to pravo, jedna je ispitanica ostvarila i pravo na opunomoćenika (odvjetnika), a tijekom razgovora s policijom pružena joj je i medicinska i psihološka pomoć.

10 ispitanica je odgovorilo da su tijekom razgovora mogle postavljati pitanja policijskim službenicima, a 9 ih je to i činilo. 3 ispitanice nisu dale jasan odgovor na ovo pitanje, a 1 je navela da se ne zbog šoka ne sjeća razgovora s policijskim službenicima. Od 9 ispitanica koje su postavljale pitanja policijskim službenicima, 4 su izjavile da su na postavljena pitanja dobile zadovoljavajuće odgovore, a preostale su izjavile da nisu dobile odgovore.

4 ispitanice su navele da su ih policijski službenici pitali trebaju li dodatnu zaštitu tijekom postupka, osjećaju li se sigurno, trebaju li dodatnu psihološku ili drugu medicinsku pomoć, njih je 9 navelo da ih policijski službenici o tome nisu pitali, a 1 da se ne sjeća (zbog šoka) detalja razgovora s policijom. 3 su navele da im dodatne zaštitne mjere nisu ponuđene iako su same kazale da se ne osjećaju sigurno. Od 4 ispitanice kojima su policijski službenici ponudili dodatne zaštitne mjere, 2 su odbile, 1 je dobila dodatne zaštitne mjere (policijsku pratnju i psihijatrijsku i medicinsku pomoć), a 1 nije dala jasan odgovor.

9 ispitanica je izjavilo da ih policijski službenici nisu uputili na odjel ili udrugu za podršku žrtvama. Od njih 9, 1 je izjavila da je za to pravo znala od prije, 1 da je to samoinicijativno istražila, a 1 da ju je uputio centar za socijalnu skrb. 2 ispitanice su izjavile da su dobile popis s udrugama za pomoć žrtvama, ali bez daljnjih uputa ili objašnjenja od strane policijskih službenika. 1 ispitanica je izjavila da je, osim što je dobila popis, i dodatno ukazano na to pravo, a 1 je izjavila da su je policijski službenici uputili na udruge za pomoć žrtvama. 1 ispitanica je izjavila da se zbog šoka ne sjeća detalja razgovora s policijom.

2 ispitanice izjavile su da im je policija ponudila mogućnost da svjedoče iz svojega doma, 8 ih je izjavilo da im da mogućnost nije ponuđena, 2 su izjavile da su s policijskim službenicima razgovarale u svojem domu, 1 je izjavila da se ne sjeća, 1 da se ne sjeća pojedinosti razgovora s policijom (zbog šoka), ali da je svjedočila na sudu.

3 ispitanice izjavile su da su se izjasnile o tome žele li koristiti pravo da sudjeluju u kaznenom postupku kao oštećenici. 9 ih je izjavilo da se o tome nisu izjasnile, a 2 su izjavile da se ne sjećaju. Od 9 koje su izjavile da se o tome nisu izjasnile, 4 su izjavile da ih policijski službenici nisu niti informirali o tome da imaju pravo sudjelovati kao oštećenici u kaznenom postupku.

Općenito govoreći, ispitanice su zadovoljne odnosom policijskih službenika prema njima. 3 su izjavile da su izrazito zadovoljne, 5 da su zadovoljne, 1 da je imala različita iskustva ovisno o tome o kojem se policijskom službeniku radilo, a 3 da su nezadovoljne odnosnom policijskih službenika prema njima, dok 2 nisu dale jasan odgovor na ovo pitanje. 4 su izjavile da su im policijski

službenici izašli ususret s obzirom na njihov invaliditet, 3 da za time nije bilo potrebe, a 1 da nisu, dok ostale nisu dale jasan odgovor na ovo pitanje.

U odnosu na ono što nisu dobile od policijskih službenika, a voljele bi da jesu, ispitanice su iskazivale o različitim stvarima, od kojih su neke konkretne (informaciju o tome da je počinitelj izašao iz istražnog zatvora, informacije o daljnjem tijeku postupka), a neke općenite te se odnose na suosjećanje, razumijevanje, osjećaj sigurnosti i podrške.

### c. U državnom odvjetništvu

Od 14 ispitanica, samo ih je 5 imalo iskustvo s državnim odvjetništvom. Nekoliko je mogućih razloga za to. Moguće je da se predmet još uvijek nalazi u fazi policijskog postupanja (postoji 1 takav predmet), ili da je policija zaključila da prijavljeno djelo nije niti kazneno djelo niti prekršaj (postoje 3 takva slučaja), ili da ispitivanja žrtve nije uopće poduzimano kao dokazna radnja prije podizanja optužnice (o tome ne postoji podaci), ili da je državni odvjetnik poduzimanje te radnje povjerio istražitelju (postoji 1 takav predmet). U posljednje navedenom slučaju je ispitanica u državnom odvjetništvu razgovarala samo s pravosudnim policajcem i portirkom kod kojih se informirala o pravu na uvid u spis predmeta.

4 ispitanice u državno su odvjetništvo došle u pratnji, a 1 je došla sama. 3 ispitanice došle su u pratnji bliskih osoba, a 1 u pratnji odvjetnika i socijalnog radnika.

3 ispitanice navele su da nisu imale problema s pristupom prostorijama državnog odvjetništva, 1 nije dala odgovor, a 1 je navela da je imala problema "zbog većeg broja stepenica i odsutnosti dizala ili prilaza za osobe s invaliditetom". Razgovor s ispitanicama vodio je državni odvjetnik, a pored njega u prostoriji se nalazio i zapisničar. U 1 slučaju u prostoriji se nalazila i medicinska sestra "jer mi je šećer varirao i bojali su se da ne padnem u komu, pa je bila medicinska sestra cijelo vrijeme sa mnom". 1 ispitanica navela je da je razgovor sniman kamerom, 1 je navela da misli da je razgovor sniman kamerom jer se vodio u prostoriji u kojoj su se nalazile kamere, 2 su izjavile da razgovor nije sniman kamerom, 1 je navela da se ne sjeća pojedinosti razgovora.

2 ispitanice izjavile su da im od strane državnog odvjetnika nisu pitane jesu li im potrebne dodatne zaštitne mjere, ali da su same tražile takve mjere za koje su im u državnom odvjetništvu kazali da ih nije moguće izreći. 1 je izjavila da nije pitana u vezi dodatnih zaštitnih mjera, 1 je izjavila da joj je pružena medicinska pomoć, a 1 da se ne sjeća pojedinosti razgovora.

2 ispitanice izjavile su da su od državnog odvjetništva dobile informacije o svojim pravima (državni odvjetnik je žrtvi pročitao te potom na papiru priložio prava koja ostvaruje kao i popis udruga za pomoć i podršku kojima se može obratiti, "Meni je taj državni odvjetnik objasnio sva prava i rekao u slučaju da vama šta bude ili da se desi, da ih mogu nazvati i da će oni obavještavati mene"). 2 ispitanice izjavile su da nisu bile obaviještene o svojim pravima ("samo su tražili iskaz o tome što se dogodilo te da će razmotriti navedeno, a o daljnjim koracima biti će obavještena"), a 1 je navela da se ne sjeća pojedinosti razgovora.

3 ispitanice izjavile su da nisu od državnog odvjetnika obaviještene o tome da imaju pravo u postupku sudjelovati kao oštećenici, a 2 su izjavile da se ne sjećaju. U skladu s tim, jedna od njih izjavila je da je "predlagala dokaze sucu, ali nije znala da to može predložiti državnom odvjetniku".

U vezi s korištenjem prava žrtve u postupku pred državnim odvjetnikom, 3 ispitanice izjavile su da nisu koristile nikakva prava, 1 je izjavila da je koristila pravo na medicinsku pomoć, a 1 da se ne sjeća pojedenosti razgovora.

U odnosu na ukupni odnos državnog odvjetništva prema njima, iskustva ispitanica su različita. 1 ispitanica izrazito je zadovoljna odnosom državnog odvjetnika prema njoj ("On je uvažavao moj invaliditet, on je meni bio i pomogo i tražio ako treba da će zvati još neko pojačanje. Dala bih ocjenu 10"). 2 su nezadovoljne odnosom državnog odvjetnika prema njima (jedna jer joj je rečeno da samo ispriča što se dogodilo i je li to tako kako tu piše te zato jer joj nisu izašli u susret s obzirom na invaliditet, druga jer smatra da joj nisu pokušali izaći u susret s obzirom na invaliditet). 1 je zadovoljna ljubaznošću, ali ne i podrškom koju je dobila od državnog odvjetnika (prilikom svakog pokušaja prikupljanja informacija, žrtva ističe da nije dobila potrebne odgovore te da nije obaviještena o puštanju počinitelja iz zatvora), a 1 je izjavila da su sve službene osobe s kojima se susrela tijekom postupka "dobri ljudi".

1 ispitanica bi voljela da je ostvarila pravo na zaštitu te da su je informirali o trenutku kada je počinitelj pušten iz zatvora, a 1 smatra da joj državni odvjetnik nije dao niti jednu potrebnu informaciju. 2 nisu izjavile da postoji nešto što joj u državnom odvjetništvu nisu rekli, a voljela bi da jesu, a 1 da se ne sjeća pojedinosti razgovora.

### d. Na sudu

Od 14 ispitanica, samo ih je 5 imalo iskustva u postupku pred sudom kao žrtve kaznenog djela ili prekršaja. I ovdje je u osnovi moguće ponuditi ista objašnjenja kao i u odnosu na ograničeno iskustvo ispitanica u vezi s postupkom pred državnim odvjetnikom - ili je u ranijoj fazi postupka zaključeno da prijavljeni događaj nije kazneno djelo ili prekršaj ili postupak još uvijek nije ušao u fazu postupanja pred sudom. Od 5 ispitanica, 1 je na sud došla sama, a 4 su došle u pratnji bliskih (kćer i muž, otac, sin) ili stručnih (odvjetnica i medicinska sestra) osoba. Na temelju dobivenih odgovora nemoguće je zaključiti jesu li bliske i stručne osobe koje su bile u pratnji ispitanica samo dopratile ispitanice do suda ili su u postupku pred sudom sudjelovale u ulozi osoba od povjerenja (ili opunomoćenika u slučaju odvjetnice). Od 5 ispitanica koje su imale relevantno iskustvo, 2 su navele da nisu imale problema s fizičkim pristupom sudu, 1 je navela da je imala problema (fizička je podrška bila nužna prilikom svakog posjeta sudu s obzirom da žrtva ističe da je imala paralizu), a 2 ispitanice nisu dale jasan odgovor na ovo pitanje.

Sve su ispitanice koje su imale relevantno iskustvo (5) iskazivale na raspravi u ulozi svjedoka kaznenog djela ili prekršaja. Iskustvo svjedočenja na raspravi za ispitanice je bilo različito. Iz dobivenih se odgovara može zaključiti da su 4 ispitanice iskazivale na uobičajen način na raspravi, dok je 1 ispitanica iskaz davala putem audio-video uređaja (nije bila fizički prisutna u sudnici

prilikom davanja iskaza). 1 je ispitanica iskazala da je prilikom davanja iskaza u sudnici bio prisutan i počinitelj djela. 1 je ispitanica iskazala da prilikom davanja iskaza počinitelj nije bio prisutan u sudnici, ali da je, nakon šta je završila s davanjem iskaza, pozvan u sudnicu. 1 ispitanica navela je da je ``saslušanje za nju bilo teško iskustvo, ostala je zatečena i bilo joj je teško opisati događaje" te da joj iskustvo "nije bilo ugodno, ali smatra da je važno da je rekla istinu".

1 ispitanica (od 5 s relevantnim iskustvom) navela je da u postupku pred sudom nije bila obaviještena o svojim pravima, 3 su navele da su bile obaviještene (od kojih je jedna iskazala da joj je sutkinja "dala sve informacije koje su tada postojale, da imam prava i sve, odlična je bila sutkinja"), a 1 je navela da se ne sjeća. U odnosu na podudarnost između prava o kojima su informirane u postupku pred policijom i državnim odvjetništvom te postupku pred sudom, od 3 ispitanice koje su dale odgovor, 2 su navele da su informacije bile u visokom postotku podudarne (jedna je navela kako smatra da se informacije od suca, policije i državnog odvjetnika podudaraju 95%, dok je druga kazala da nije bilo razlika u dobivenim informacijama), dok 1 nije dala jasan odgovor (identificira prava koja joj je sudac dao kao vrlo štura, a prava koja su joj dali policijski službenici se teško prisjeća zbog šoka kojeg je nedavno proživjela).

2 ispitanice (od 5 s relevantnim iskustvom) su navele da od suda nisu dobile informaciju o pravu da u postupku sudjeluju kao oštećenice, 2 nisu dale jasan odgovor na postavljeno pitanje, a 1 je iskazala da je sudac spomenuo da ima pravo aktivno sudjelovati u postupku kao oštećenik, ali nije opširnije objasnio što znači.

U odnosu na ukupno iskustvo postupka pred sudom, 3 ispitanice (od 5 s relevantnim iskustvom) su iskazale nezadovoljstvo ("Osjećala sam se grozno. Nije pitala događaj zbog kojeg je zvana policija nego mi je samo rekla jel znam da mogu krivično odgovarati zbog lajanja pasa. (...) Ma nije mi dala pričat. Imala sam osjećaj da nemam pravo glasa. (...) Jer kad je kao taj dan završilo ročište, onda je rekla nek potpišemo, ja sam rekla pročitajte mi da vidim šta potpisujem, a ona mi je kazala da se nema se tu šta čitati i da valjda znam šta sam rekla." Druga je žrtva navela da su službenici na samom početku postupka pokazivali empatiju koja je kasnije iščeznula. Treća je iskazala da ukupno gledano nije zadovoljna iskustvom sudskog postupka i odnosom sudskih službenika prema njoj, prvenstveno zbog duljine trajanja postupka. 1 je ispitanica navela da je izrazito zadovoljna odnosom sutkinje prema sebi ("10, isto 10. Što se tiče toga, oni su bili ljubazni prema meni i sve što sam tražila i pitala, dali su mišljenje i uputstva i sve. Tako da su bili super."). 1 je ispitanica iskazala zadovoljstvo, ali ga nije detaljnije elaborirala.

3 su ispitanice (od 5 s relevantnim iskustvom) navele da ne smatraju da im je sud izašao u susret s obzirom na njihov invaliditet, 1 je navela da smatra da su joj izašli u susret, a 1 nije dala jasan odgovor.

### e. Druge službe

Od 14 ispitanica, njih 8 je navelo da ih niti policija, niti državno odvjetništvo, niti sud nisu uputili na službe podrške. 2 su navele da su bile upućena na službe podrške, ne precizirajući od koga, 2

da ih je policija uputila na službe podrške (jedna na udrugu kojoj se obratila, a druga je navela da je od policije dobila papir s popisom svojih prava i službi kojima se može obratiti te da je samoinicijativno nazvala službu za socijalnu skrb), a preostale 2 da ih je na određene službe uputio centar za socijalnu skrb (jednom na obiteljski centar, a drugi put na psihološku pomoć).

Neovisno o tome što su u niskom postotku od nadležnih tijela dobile informacije o dostupnim službama, čak se 10 (on intervjuiranih 14) ispitanica obratilo nekome za pomoć i podršku vezano uz činjenicu da su bile žrtve kaznenog djela ili prekršaja. Ispitanice (10) su se obratile sljedećim službama: odjelu na ispitaničinom radnom mjestu koji se bavi psihološkom pomoći, Centru za mir i nenasilje (koji je ispitanica sama pronašla preko interneta), odjelu za pomoć žrtvama pri županijskom sudu, Ministarstvu pravosuđa (vezano uz novčanu naknadu), Autonomnoj ženskoj kući, privatnoj psihijatrijskoj ordinaciji, udruzi B.a.B.e, udruzi u K. (s ciljem dobivanja pravne pomoći), centru za socijalnu skrb (3 ispitanice), udruzi na T. (uglavnom se radilo o humanitarnoj pomoći), udruzi distrofičara, Hrvatskom pravnom centru, pučkom pravobranitelju, Pravnoj klinici Pravnog fakulteta u Zagrebu, obiteljskom centru. U navedenim službama ispitanicama su pruženi različiti oblici pomoći: psihološka, emocionalna, humanitarna, pravna, smještaj u sigurnu kuću, obiteljsko savjetovanje. Ispitanice iznose i različitu razinu (ne)zadovoljstva pomoći i podrškom koja im je pružena na različitim mjestima.

U odnosu na upućivanje na specijalizirane službe za podršku, od 14 ispitanica, samo su 2 iskazale da su upućena u takve službe, i to od strane centara za socijalnu skrb. U jednom se slučaju radio o upućivanju na podršku za žrtve nasilje, a u drugom na psihološku pomoć. Niti jedna od ispitanica nije se obratila Nacionalnom pozivnom centru.

2 ispitanice obratile su se udrugama za osobe s invaliditetom (udruzi distrofičara i udruzi u kojoj je ispitanica zaposlena). 3 ispitanice navele su da su se obratile pravobraniteljici za osobe s invaliditetom. 1 ispitanica istaknula je značajnu pomoć Portala za osobe s invaliditetom (IN Portal). 1 ispitanica istaknula je da se nije obraćala takvim udrugama jer nema dobrih iskustava s lokalnom udrugom za osobe s invaliditetom.

U odnosu na uloge koje bi udruge za osobe s invaliditetom mogle imati, ispitanice su iznosile različite ideje: pravnu podršku, savjetodavnu (2), psihološku, detaljnije obavijestiti žrtve koje su OSI o njihovim pravima tijekom postupka (2), osobito o postojanju Nacionalnog pozivnog centra i Odjela za podršku žrtvama i svjedocima, koordinaciju različitih tijela, angažiranje osobe od povjerenja, privremenog smještaja u slučajevima obiteljskog nasilja.

U odnosu na poboljšanje institucionalnog informiranja osoba s invaliditetom o njihovim pravima kada su žrtve kaznenih djela ili prekršaja, ispitanice su iznosile različite ideje: bolje umrežavanje institucija i njihovu međusobnu koordinaciju (a ne da OSI koja ja žrtva kaznenog djela komunicira sa svakom institucijom posebno), besplatno ili sufinancirano pravno savjetovanje, edukacija iz znakovnog jezika, psihološka i pravna pomoć.

### *1.4.2. Rezultati fokusnih grupa*

S obzirom na to da je održano 14 od planiranih 20 intervjua osoba s invaliditetom, odlučeno je da se broj intervjua koji nedostaje nadomjesti dvjema fokus grupama, kako bi se neizravnim putem prikupili podaci od predstavnika organizacija civilnog društva koje pružaju besplatnu pravnu pomoć ili drugu vrstu pomoći i podrške posebno osobama s invaliditetom i općoj populaciji. Smatra se kako osoblje tih organizacija također raspolaže informacijama o položaju osoba s invaliditetom, koje su ujedno i žrtve kaznenih ili prekršajnih djela, te mogu doprinijeti stvaranju uvida u predmet ovoga istraživanja. U formatu fokusnih grupa saznala su se njihova iskustva koja proizlaze iz njihove pomoći koju pružanju osobama s invaliditetom koje su ujedno i žrtve, i na taj način su se ujedno prikupile i informacije o potencijalnim problemima i poteškoćama s kojima se te osobe susreću u sudskim i prekršajnim postupcima, kao i možda razlozima njihove nespremnosti da izvijeste o tome.

Održane su dvije fokus grupe u ožujku 2021. godine. Obje su održane u online okruženju. Na prvoj su fokus grupi sudjelovali predstavnici udruga koje se bave pružanjem besplatne pravne pomoći općoj populaciji. Na toj je fokus grupi sudjelovalo 5 predstavnika takvih udruga. Druga fokus grupa okupila je predstavnike udruga osoba s invaliditetom. Na toj je fokus grupi sudjelovalo 6 predstavnika takvih udruga.

Rezultati prve fokus grupe mogu se sažeti na sljedeće. Udruge koje se bave pružanjem besplatne pravne pomoći općoj populaciji imaju malo iskustva u radu s osobama s invaliditetom i ne vode posebne evidencije o tome jesu li osobe koje im se obraćaju za pomoć OSI. Saznanja o tome da je osoba koja im se obraća OSI imaju samo ako im sama osoba na to ukaže ili ako je problematika u vezi koje im se osoba obraća vezana uz probleme osoba s invaliditetom (osobna invalidnina, invalidska mirovina i sl.). Neki smatraju da same OSI u kontaktu s ovim udrugama svoj invaliditet ne smatraju okolnošću koju bi bilo potrebno posebno isticati. S obzirom na udio OSI u općoj populaciji i na broj OSI koje im se obraćaju za pomoć, može se zaključiti da se OSI razmjerno značajno manje obraćaju ovim udrugama, što može upućivati ili na socijalnu isključenost OSI ili na njihovu upućenost primarno na udruge koje se bave isključivo problemima te populacije. Dodatna okolnost koja je prisutna kod OSI, a koja može odvraćati te osobe od obraćanja različitim udrugama koje pružaju pravnu ili neku drugu pomoć je i ovisnost tih osoba o počiniteljima kaznenih djela ili prekršaja na njihovu štetu.

Vezano uz načine na koje bi se OSI koje su žrtve kaznenih djela ili prekršaja moglo potaknuti da se koriste svojim zagarantiranim pravima, ukazano je na sljedeće: informiranje OSI, ali i educiranje stručnjaka raznih profila koji dolaze u kontakt s OSI. Ta bi edukacija trebala obuhvatiti znanja o OSI, ali i znanja o pravima žrtava kaznenih djela i prekršaja. OSI koje krenu u ostvarivanje svojih prava znaju biti obeshrabrene neodgovarajućim pristupom policijskih, pravosudnih ili stručnjaka sustava socijalne skrbi, u čijoj se podlozi nalazi nerazumijevanje specifičnih problema s kojima se ova populacija ljudi suočava. Vezano uz postojeće načine na koji se žrtve kaznenih djela, pa i OSI, informiraju o svojim pravima, istaknuto je da se u postupanju

policijskih tijela uobičajila praksa informiranja žrtava o njihovim pravima, i to predajom pisane pouke o pravima. Kao dobrodošla, istaknuta je praksa informiranja žrtava o udrugama koje pružaju pomoć i podršku žrtvama, a dostupne su na području na kojem žrtva živi. Kao na nedostatak takve prakse, ukazano je da se prava koja žrtve imaju žrtvama ne objašnjavaju na njima razumljiv način od strane policijskih službenika, ali i da se taj nedostataka može nadoknaditi kroz kontakt žrtve s udrugama. Istaknuto je da je najveći napredak vezano uz postupanje sa žrtvama uočen upravo u praksi policijskih tijela te da policijski službenici iskazuju najveću kooperativnost u vezi edukacija o pravima žrtava kaznenih djela. Istaknuto je da su problemi s kojima se suočavaju žrtve kaznenih djela i prekršaja još izraženiji kada se radi o OSI.

Druga fokus grupa pokazala je da ni ova vrsta udruga nema puno iskustava sa OSI koje su žrtve kaznenih djela ili prekršaja, što znači da se OSI koje su žrtve rijetko javljaju ovim udrugama u vezi problematike vezane uz činjenicu viktimizacije. Iako se rijetko javljaju, neka iskustva govore o tome da su OSI često žrtve kaznenih djela i prekršaja, i to od strane njima bliskih osoba i da je tamna brojka kod kriminaliteta na štetu OSI veća nego u općoj populaciji. Budući da su OSI u pravilu ekonomski i na drugi način ovisne o pomoći bliskih osoba, rijetko se odlučuju na prijavljivanje takvih djela kada su počinitelji njima bliske osobe. Neka iskustva govore da je i bliža okolina OSI svjesna da su izložene nasilju, ali nije spremna ništa u vezi s tim poduzeti, i to zbog činjenice da je OSI žrtva u potpunosti ovisna o nasilniku (stvara se krug šutnje, koji se razotkriva nakon smrti nasilnika). Ukazano je i na problem negativne autopercepcije OSI - budući da smo OSI, postoji određena razina neugodnosti i nasilja za koje je očekivano da ga pretrpimo. Čak i kada se jave udrugama, rijetko se odlučuju na prijavljivanje nasilja nadležnim tijelima. Iskustva jedne udruge govore da je od ukupnog broja OSI koje su im se javile u vezi činjenice da su bile izložene obiteljskom nasilju, samo jedna trećina nasilje prijavila nadležnim tijelima, i to policiji ili centru za socijalnu skrb. Specifičnost obiteljskog nasilja kod OSI jest da se u krugu počinitelja ne nalaze one osobe koje su uobičajeni počinitelji tih kaznenih djela i osobito prekršaja u općoj populaciji (intimni partneri), već da je krug počinitelja značajno širi, i uključuje i druge bliske srodnike. OSI su često izložene ekonomskom nasilju od njima bliskih osoba jer im se neopravdano uskraćuje mogućnost raspolaganja sredstvima koja primaju na temelju svojeg invaliditeta. Ukazano je na dobru praksu policije koja se ogleda u tome da na teren, u slučaju prijave za obiteljsko nasilje, izlaze policijski službenici oba spola. Istodobno je ukazano i na neprihvatljivu praksu prijavljivanja obaju partnera za remećenje javnog reda i mira, iako je u podlozi takvog sukoba nasilje kojem je ženska osoba izložena od strane osobe muškoga spola. Ukazano je i na daljnje probleme u praksi koji se ogledaju u neuzimanju u obzir invaliditeta osobe kao relevantnog čimbenika prilikom donošenja odluka od strane nadležnih tijela. Tako je u jednom slučaju nasilnik izdvojen u prizemlje kuće, a žrtva koja je OSI koja se kreće u pomoć kolica je nastavila život u prostoru na katu kuće, čime joj je u ovom slučaju u potpunosti onemogućen pristup vanjskom svijetu i zadovoljenje svih onih elementarnih životnih potreba koje su s tim povezane.

U odnosu na iskustva s institucijama, istaknuto je da je najviše spremnosti za promjene pokazala policija. Istodobno se sustav socijalne skrbi pokazao dosta nespremnim za poboljšanje postojećeg

stanja, kao i institucije pravosuđa (državno odvjetništvo, sudovi). Istaknuta je dobra praksa obavještavanja žrtava o njihovim pravima od strane policije kroz dostavu pisane pouke o pravima. Istaknuta je potreba edukacije svih službenika koji dolaze u kontakt s osobama s invaliditetom vezano uz činjenicu da su bile žrtve kaznenih djela ili prekršaja.

### *1.4.3. Rezultati upitnika za udruge*

Anketno istraživanje udruga osoba s invaliditetom na nacionalnoj razini u RH o mogućnosti pružanja podrške žrtvama kaznenih djela i prekršaja provedeno je da bi odgovorilo na dva glavna pitanja:

1. Kakvi su kapaciteti udruga osoba s invaliditetom, a koji bi mogli biti iskorišteni za pružanje podrške korisnicima koji su žrtve kaznenih djela i prekršaja; i

2. Kakva je optimalna uloga tih udruga u sklopu nacionalnog sustava pomoći i podrške žrtvama kaznenih djela i prekršaja.

#### a. Kapaciteti udruga

Kada je riječ o generalnom kapacitetu udruga, rezultati ankete pokazuju da one posjeduju znatne kapacitete za zastupanje i pružanje usluga svojim korisnicima, prvenstveno pomoći u ostvarenju statusnih prava, zdravstvene zaštite i njege, te psihosocijalne podrške i pomoći. Kapaciteti udruga koji se čine najrelevantnijima za njihovu moguću buduću znatniju ulogu u osiguranju pristupa pravima po Direktivi o žrtvama za osobe s invaliditetom su sljedeći:

(i) Mogućnost izravnog kontakta s populacijom osoba s invaliditetom. Već samo organizacije koje su sudjelovale u anketi okupljaju zajedno 95 područnih organizacija, a izravno je u njih učlanjeno 17.224 osoba s invaliditetom. Ta ih činjenica stavlja u jedinstvenu poziciju po kojoj mogu služiti kao vrlo učinkovit kanal komunikacije s ovom populacijom, i u smislu informiranja osoba s invaliditetom, i u smislu istraživanja. Naime, ostale organizacije ili institucije iz područja pravosuđa i sustava pomoći i podrške žrtvama kaznenih djela ne prikupljaju podatke o mogućem invaliditetu svojih klijenata, pa nisu u stanju formulirati i provoditi na dokazima zasnovanu javnu politiku, ali ni formulirati programe koji bi bili usmjereni uvođenju prilagodbi koje bi omogućile osobama s invaliditetom da pristupe svojim pravima na jednak način.

(ii) Dobro poznavanje opće situacije i specifičnih pitanja s kojima se susreću pojedinačne skupine osoba s invaliditetom, kao i regulatornog, institucionalnog i provedbenog okvira namijenjenog izjednačavanju njihovih mogućnosti. To je vidljivo iz kataloga aktivnosti kojima se bave, usluga i podrške koje pružaju korisnicima, profila suradnika koje zapošljavaju, te kataloga organizacija, institucija i tijela s kojima surađuju. U svojstvu nositelja ovih znanja, anketirane organizacije predstavljaju ključne partnere u formuliranju i provedbi procedura i programa namijenjenih

osobama s invaliditetom, pa time i one namijenjene njihovom jednakom pristupu pravima žrtava kaznenih djela i prekršaja.

(iii) Udruge osoba s invaliditetom prepoznate su od strane tijela javne vlasti i drugih javnih organizacija i institucija kao legitimni predstavnici svojih korisnika. To je vidljivo iz kataloga organizacija i institucija s kojima surađuju, i iz činjenice da su gotovo potpuno financirane iz javnih izvora financiranja. Ovakav položaj im olakšava obavljanje poslova iz njihovog uobičajenog djelokruga, ali i dobru pregovaračku poziciju u novim pitanjima od interesa za osobe s invaliditetom, uključujući i njihov pristup pravosuđu i pravima kao žrtava.

(iv) Pritom kao ograničavajući faktor ipak treba spomenuti i činjenicu da su anketirane organizacije povijesno i po svojem habitusu i strukturi usmjerene najvećim dijelom na pomoć u rješavanju statusnih pitanja, pitanja vezanih za zdravstvenu zaštitu i njegu, te na pružanje psihosocijalne pomoći i podrške osobama s invaliditetom. Proširivanje njihove uloge na netradicionalna područja zahtijevat će zagovaranje, znatnije ulaganje u razvoj kapaciteta, i vrijeme potrebno za prilagodbu.

### b. Optimalna uloga udruga u sustavu podrške

U drugom dijelu istraživanja prikupili smo podatke na temelju kojih možemo zaključiti koja je optimalna uloga udruga OSI u sklopu nacionalnog sustava pomoći i podrške žrtvama kaznenih djela i prekršaja. Odgovori anketiranih organizacija pokazali su da:

(i) Pola anketiranih organizacija izjavilo je da ima bilo kakvo iskustvo s pružanjem pomoći i podrške žrtvama kaznenih djela. Ipak, velika većina (7 od 8) njih je izrazila sklonost proširenju svoje djelatnosti i na ovo područje.

(ii) Sve organizacije svoju ulogu vide u informiranju korisnika o njihovim pravima i postojećoj podršci, a gotovo sve (7 od 8 anketiranih) u upućivanju korisnika u sustav podrške, odnosno u druge organizacije specijalizirane za pružanje pomoći i podrške žrtvama kaznenih djela i prekršaja. U skladu s potrebama populacije koju predstavljaju, spremni su pružiti i pomoć u osiguranju ključnih prilagodbi: pomoći u osiguranju mobilnosti i pomoći u komuniciranju. Manji broj organizacija (3 od 8) izrazio je spremnost da pruži podršku korisnicima tako što će osigurati osobu od povjerenja koja će ih pratiti u policiju, odvjetništvo i na sud.

(iii) Kada je riječ o upućivanju korisnika, organizacije izvještavaju većinom o upućivanju u službene organizacije i institucije, povezane s osiguranjem statusa, medicinskom i psihosocijalnom podrškom. Upitane o osobinama koje bi trebale imati nove organizacije u koje bi oni bili spremni uputiti svoje korisnike, navode nekoliko ključnih karakteristika: poznavanje specifičnih potreba osoba s pojedinačnim vrstama poteškoće/invaliditeta, te obučenost osoblja za

komunikaciju i rad s njima; osiguranje fizičke pristupačnosti i drugih osnovnih prilagodbi; te pristup zasnovan na prilagodljivosti i razumijevanju prava i potreba osoba s invaliditetom.

(iv) Upitane o kapacitetima koji im nedostaju da bi mogle uspješno pružati pomoć i podršku žrtvama kaznenih djela i prekršaja, organizacije najčešće navode nedostatak poznavanja tog područja, od pravnih aspekata kaznenog i prekršajnog postupka do specifičnih potreba za potporom žrtava kaznenih djela. Shodno tome, zapošljavanje stručnih suradnika, većinom pravne struke, vide kao moguće rješenje ovog nedostatka, a naglašavaju i potrebu za vlastitom edukacijom. To također podrazumijeva i osiguranje fizičkih, odnosno logističkih uvjeta za pružanje tih novih usluga, kao i stabilno financiranje te djelatnosti.

### *1.5. Preporuke*

Na temelju provedenog istraživanja, dajemo sljedeće preporuke radi unaprjeđenja pristupa pravima iz Direktive o žrtvama za OSI:

1. Kada se radi o kaznenim djelima i prekršajima koji su počinjeni na štetu OSI, žrtve se rijetko odlučuju prijaviti ta djela nadležnim institucijama. Ono što se ističe kao temeljna prepreka za iniciranje odgovarajućih postupaka pred nadležnim tijelima jest ovisnost OSI žrtava o osobama koje čine kaznena djela i prekršaje na njihovu štetu. *Stoga je potrebno* ***sustavno i dugoročno raditi na izgradnji javno financiranog sustava podrške za OSI koji će toj kategoriji osoba omogućiti egzistencijalnu emancipaciju od osoba čijem su nasilju izložene***. Izgradnja takvog sustava podrške podrazumijeva prije svega da je OSI koje su žrtve kaznenih djela i prekršaja od strane njima bliskih osoba s kojima dijele zajedničko kućanstvo, u slučaju potrebe za tim, dostupan smještaj prilagođen njihovim potrebama. Vodeću ulogu u izgradnji takvog sustava trebale bi odigrati udruge koje se bave promicanjem i zaštitom prava OSI (više o ulozi tih udruga u sustavu podrške v. u preporukama pod toč. 6 i 7).

2. Kada se OSI koje su žrtve kaznenih djela odluče nadležnim institucijama prijaviti kazneno djelo ili prekršaj koji su počinjeni na njihovu štetu ili to učini neka druga osoba ili organizacija, OSI se susreću sa nizom poteškoća koje njihovo sudjelovanje u postupcima kaznenog i prekršajnog pravosuđa čini tegotnijim od istovjetnog sudjelovanje opće populacije. Problemi postoje u sferi fizičkog pristupa nadležnim tijelima *Stoga je potrebno* ***raditi na uklanjanju prepreka koje onemogućuju ili otežavaju fizički pristup OSI policijskim tijelima i tijelima kaznenog ili prekršajnog pravosuđa***.

3. Daljnji problemi postoje u nemogućnosti odgovarajuće komunikacije sa službenicima nadležnih tijela. *Stoga je potrebno* ***raditi na uklanjanju prepreka koje otežavaju mogućnost odgovarajuće komunikacije između OSI i policijskih službenika i službenika kaznenog ili prekršajnog pravosuđa***. Uvažavanje preporuke pod 2 i 3 može voditi imenovanju ***koordinatora za osobe s invaliditetom*** u nadležnim institucijama. Te bi osobe služile kao središnje kontaktne točke kojima bi se drugi službenici tog tijela mogli obratiti kada imaju određene nejasnoće ili dvojbe oko toga

kako omogućiti pristup ili pristupiti OSI. Veliku pomoć u radu takvih koordinatora mogle bi pružiti i udruge OSI, čije bi specifično znanje, s obzirom na specifičnosti pojedinačnih kategorija oštećenja, moglo biti korisno u informiranju žrtava, osiguravanju razumijevanja datih informacija, osiguranju mobilnosti i drugih potrebnih prilagodbi za osobe s invaliditetom, i upućivanju u sustav podrške i pomoći. Bilo bi uputno u ovu svrhu uspostaviti suradnju s MUP-om/Ravnateljstvom policije radi razvoja potrebnih protokola.

4. Uočeno je da u populaciji OSI postoji izrazito niska razina svijesti o pravima žrtava kaznenih djela i prekršaja. *Stoga je potrebno* ***raditi na podizanju informiranosti OSI o pravima koje imaju kao žrtve kaznenih djela ili prekršaja***. Značajnu ulogu u ostvarenju ove preporuke mogu odigrati udruge OSI, koje bi, u suradnji s drugim dionicima, mogle provesti široku kampanju informiranja korisnika o njihovim pravima kao žrtava kaznenih djela i prekršaja. Iz rezultata istraživanja u sklopu projekta ARVID može se zaključiti da oni u pravilu nemaju dovoljno informacija koje bi im omogućile odlučivanje u ovim slučajevima te korištenje prava koja su im zajamčena. Organizacije OSI bi također trebale pronaći načina da vode angažirani dijalog sa svojim korisnicima o ovim pitanjima, budući se pokazalo da one u pravilu ne mogu identificirati žrtve kaznenih djela među svojim korisnicima, a posljedično nemaju ni sustavnog uvida u njihova iskustva i probleme.

5. Istraživanje je pokazalo da među policijskim službenicima i službenicima kaznenog i prekršajnog pravosuđa ne postoji dovoljno razvijena svijest o tome na koji način pristupiti OSI i u kojoj je mjeri potrebno i poželjno svoje postupanje prilagoditi mogućnostima i potrebama OSI. *Stoga je potrebno* ***među službenicima nadležnih tijela sustavno provoditi edukacije o posebnostima OSI i prilagođenom postupanju prema njima***. Važnu ulogu u provođenju edukacija mogle bi imati udruge OSI, koje bi se trebale aktivno uključiti u informiranje i obuku dionika iz pravosudnog sustava o tome kako komunicirati s osobama s invaliditetom, te o specifičnosti situacije i potrebnim prilagodbama za osobe s pojedinačnim kategorijama invaliditeta. To informiranje i obuka bi imalo važnu ulogu u otklanjanju otpora prema uključivanju osoba s invaliditetom, koji je vjerojatno velikim dijelom uvjetovan nedostatkom spomenutog znanja i iskustva. Pritom svakako treba sustavno isticati zahtjev da se osobama s invaliditetom koje su žrtve kaznenih djela i prekršaja omogući osobno sudjelovanje u postupku, da ih se u tome ohrabri i da se osiguraju svi preduvjeti za njihovo neposredno korištenje prava zajamčenih Direktivom o žrtvama.

6. Istraživanje je pokazalo da se među udrugama koje su dio sustava podrške žrtvama kaznenih djela i prekršaja, kao ni među udrugama OSI, ne posvećuje dovoljna pažnje potrebama žrtava kaznenih djela ili prekršaja koje su OSI. Primjerice, skloništa za žrtve nasilja u obitelji, ionako nedovoljnog kapaciteta, nisu u pravilu ni opremljena za smještaj osoba s invaliditetom. *Stoga je potrebno* ***unutar sustava podrške žrtvama kaznenih djela razvijati svijest o posebnim potrebama OSI koje su žrtve kaznenih djela***. Dugoročno se to može učiniti na način da se udruge OSI aktivnije uključe u sustav podrške žrtvama kaznenih djela i prekršaja. Te bi udruge trebale postupno razvijati svoje kapacitete za pružanje pomoći i potpore korisnicima koji su žrtve kaznenih

djela i prekršaja. U početku će, zbog trenutno malog broja slučajeva, biti možda korisno identificirati jednu osobu – koordinatora (i/ili manji ad hoc multidisciplinarni tim) koja će se bolje upoznati s ovom problematikom i služiti kao referentna osoba za ovo područje unutar organizacije. Odluku o tome hoće li biti potrebno dodatno razvijati vlastite kapacitete, ili ova pitanja rješavati proširenjem suradnje sa organizacijama specijaliziranim za pružanje pomoći i podrške žrtvama svaka organizacija može donijeti kada bude imala bolju sliku o potrebama svojih korisnika, stečenu praćenjem vlastite prakse i korištenja ovih usluga. Kao prijelazno rješenje, svakako bi bilo uputno da se ***udruge OSI programski povežu s organizacijama civilnog društva okupljenima u Mrežu podrške i suradnje za žrtve i svjedoke kaznenih djela***. U nedostatku trenutno postojećeg kapaciteta za pružanje pomoći i podrške žrtvama kaznenih djela i prekršaja među svojim korisnicima, korisno bi bilo upućivati ih u tu svrhu organizacijama koje već posjeduju iskustvo i stručnost u ovom području. Suradnja ova dva tipa organizacija mogla bi dovesti do boljeg informiranja žrtava, jer bi im zajednički mogli pružiti sve relevantne informacije na način prilagođen mogućim posebnim potrebama korisnika, te boljeg upućivanja žrtava, jer bi ih usmjeravali prema njima prilagođenim pružateljima usluga. Kroz ovu suradnju organizacije OSI mogle bi razviti vlastite kompetencije u pružanju pomoći i podrške žrtvama kaznenih djela i prekršaja, ali i podučiti suradne organizacije o specifičnostima rada s osobama s invaliditetom. Dodatna korist za osobe s invaliditetom ostvarila bi se kada bi se dogovorio oblik suradnje koji bi im omogućio da na jednom mjestu i odjednom dobiju potrebne informacije i pomoć, ali i pravni savjet i moguću sekundarnu pravnu pomoć radi informiranog odlučivanja o daljnjim koracima. S obzirom na ograničena sredstva koja se unutar sustava pravosuđa izdvajaju u svrhu održavanja sustava podrške za žrtve kaznenih djela, bilo bi uputno da se u dogradnju tog sustava u odnosu na potrebe žrtava OSI uključi ministarstvo nadležno za poslove socijalne skrbi.

7. Već je ranije istaknuto da postupci unutar kaznenog i prekršajnog pravosuđa nisu u dovoljnoj mjeri prilagođeni OSI te da se u vezi s tim treba raditi na edukaciji nadležnih službenika i OSI. Važnu ulogu u premošćivanju prepreka koje postoje između OSI i institucija i službenika policije i kaznenog i prekršajnog pravosuđa mogu odigrati ***udruge OSI***. One već od inicijalnog kontakta OSI s ovim tijelima ***mogu biti uključene u postupke pojedinačne procjene OSI žrtava kaznenih djela i prekršaja***, jer vrlo dobro poznaju situaciju u kojoj se nalaze osobe s invaliditetom, imaju njihovo povjerenje, i mogu pružiti pomoć i podršku objema stranama radi što boljeg upravljanja rizicima za žrtvu. ***Predstavnici tih udruga mogli bi u značajnoj mjeri preuzeti ulogu osobe od povjerenja***, koja će pratiti OSI u njenim interakcijama s policijom i pravosudnim tijelima. Ova je uloga važna zbog potpore žrtvi, ali može pomoći osigurati aktivno sudjelovanje žrtve u postupku, što i jest osnovna intencija Direktive. Naime, neke od informacija koje smo prikupili ukazuju da pravosudna tijela često izbjegavaju uključiti osobe s invaliditetom, već umjesto toga konzultiraju predstavnike socijalnih službi ili drugih osoba koje zastupaju OSI, s deklariranom namjerom da ih se poštedi dolaska na sud ili u državno odvjetništvo. To je suprotno duhu i slovu Direktive, ali i Konvencije o pravima osoba s invaliditetom.

## *2. Sažetak sa skupova/sastanaka na kojima su raspravljane preporuke s relevantnim dionicima*

### 2.1. Sažetak rasprave

Na okruglim stolovima i sastancima predstavljeni su rezultati empirijskog istraživanja provedenog na uzorku osoba s invaliditetom (dalje u tekstu: OSI) koji su ujedno i žrtve kaznenih djela i/ili prekršaja sastancima, a prezentirane su i preporuke za unapređenje javnih politika i praksi usmjerenih na pružanje podrške ostvarivanju prava koja garantira Direktiva o pravima žrtava za OSI. Nakon predstavljanja ovih projektnih rezultata, raspravljene su preporuke i druga pitanja koja su sudionici sastanaka identificirali kao relevantne za ovu temu.

Na svim je sastancima naglašena važnost općeg načela nediskriminacije, odnosno stav o nužnosti razumne prilagodbe kako bi se svim kategorijama žrtava, uključujući OSI (bez obzira na tip invaliditeta), osigurao jednak pristup pravima (i pristup pravosuđu. Sudionicima više sastanaka bio je zajednički dojam da postoji svojevrsna podjela između sektora, na način da da se općenito ostvarivanjem prava OSI bave udruge OSI, dok je pružanje podrške žrtvama u domeni policije i pravosudnih tijela, uključujući odjele za podršku pri županijskim sudovima te organizacijama civilnog društva (dalje u tekstu: OCD) koje djeluju u području pružanja podrške žrtvama kaznenih djela i prekršaja. Ocijenjeno je da takva stroga podjela može otežati puno ostvarivanje prava OSI koje su žrtve kaznenih djela i/ili prekršaja. Na zagovaračkim je sastancima potvrđen još jedan opći nalaz empirijskog istraživanja: činjenica da su OSI u mnogim slučajevima ekonomski i na druge načine ovisni o počiniteljima kaznenih djela i/ili prekršaja kojima su oštećeni (jer se često radi o članovima njihovih obitelji); to ih potencijalno čini dodatno ranjivim kada su viktimizirani.

U odnosu na projektnu preporuku koja se odnosi na **sustavnu i dugoročnu izgradnju javno financiranog sustava podrške za OSI**, sudionici su naglasili važnost multidisciplinarnog pristupa, osobnih kompetencija osoba uključenih u rad postojećeg sustava za podršku žrtvama, kao i važnost razmjene znanja i iskustava kroz zajedničko sudjelovanje u edukaciji osoblja udruga OSI i organizacija koje pružaju pomoć i podršku OSI koje su žrtve kaznenih djela i/ili prekršaja. Naglašen je i značaj suradnje državnih i javnih institucija s civilnim sektorom, kao i važnost osiguranja pokrivenosti čitavog teritorija zemlje i svih regija uslugama koje pružaju OCD te potencijalno velika korist koja bi se mogla ostvariti umrežavanjem na lokalnoj razini udruga OSI i udruga koje se bave podrškom žrtvama

Sudionici svih sastanaka u potpunosti su se složili da je **nužno, kako je naglašeno i u projektnoj preporuci, uklanjanje fizičkih prepreka koje sprječavaju ili otežavaju pristup OSI policijskim postajama i zgradama/uredima pravosudnih tijela**. Također je spomenuto da su problemi s pristupačnošću i arhitektonske barijere karakteristični i za druge relevantne institucije, primarno one značajne za pružanje podrške žrtvama kaznenih djela i/ili prekršaja, kao što su centri za socijalnu skrb, OCD i skloništa.

U odnosu na preporuku koja se odnosi na **uklanjanje prepreka za učinkovitu komunikaciju OSI s policijskim službenicima i djelatnicima u pravosudnom sustavu, uključujući i**

**inicijativu za imenovanje koordinatora za OSI pri tim institucijama**, naglasak u zaključcima rasprava stavljen je na potrebu da se invaliditet uzme u obzir kao relevantna osobna karakteristika žrtve pri provođenju individualne procjene potreba žrtve. U tom je kontekstu važno provesti edukaciju osoba koje provode individualne procjene žrtava – policijskih službenika, državnih odvjetnika, sudaca, itd. – te uključiti udruge OSI u provođenje treninga, budući da one raspolažu specifičnim znanjem potrebnim za prepoznavanje različitih tipova invaliditeta, a mogu pružiti i savjete u odnosu na primjerene mjere zaštite i prilagodbe postupanja. Neki sudionici sastanaka izričito su podržali i ideju o uvođenju koordinatora za rad sa žrtvama koje su OSI u institucijama uključenim u kazneni/prekršajni postupak, odnosno osobe koja bi završila posebnu obuku te bi komunicirala s udrugama koje pružaju podršku žrtvama i udrugama OSI. Istaknuta je važnost jačanja svijesti o pravima i potrebama prilagodbe postupanja te je naglašeno kako je taj proces puno dalje odmakao u županijskim sudovima pri kojima djeluju Odjeli za podršku žrtvama i svjedocima. Sugerirano je da je, posebno u regijama u kojima Odjeli ne djeluju, važno ostvariti suradnju s udrugama OSI.

U odnosu na **podizanje svijesti OSI o pravima koje imaju kao žrtve kaznenih djela i/ili prekršaja**, zaključeno je da pri tome mogu biti korisni svi dostupni komunikacijski kanali i mediji – od radio emisija, s kojima već postoje vrlo dobra iskustva, preko videa koji se mogu dijeliti putem društvenih mreža i medija, do postera i letaka. Naglašeno je da udruge OSI mogu preuzeti ulogu posrednika u diseminaciji i procesu informiranja OSI.

Razgovaralo se i o **treningu za službenike svih nadležnih tijela o specifičnim potrebama OSI** te o potrebama razumne prilagodbe njihovog postupanja, te su se sudionici sastanaka složili da se treningu treba pristupiti na interdisciplinaran i multisektorski način, pri čemu treba organizirati zajedničku edukaciju za sve osobe unutar sustava: suce, odvjetnike, državne odvjetnike, policijske službenike, predstavnike OCD-a koje pružaju podršku žrtvama i predstavnike udruga OSI. Važnost višeinstitucionalnog treninga uz sudjelovanje udruga OSI naglašena je i u kontekstu koncipiranja obuke za provođenje individualne procjene potreba žrtve za zaštitom i podrškom (kada je žrtva OSI).

Također, istaknuta je važnost jačanja kapaciteta djelatnika centara za socijalnu skrb, budući da su oni među prvima koji stupaju u kontakt s OSI, žrtvom kaznenog djela i/ili prekršaja.

Što se tiče **razvoja svijesti unutar sustava potpore o posebnim potrebama OSI** koje su žrtve kaznenih djela, kao i **sustavne suradnje udruga OSI s organizacijama civilnog društva okupljenim u Mreži potpore i suradnje za žrtve i svjedoke kaznenih djela**, sudionici su se složili s ovom preporukom i potvrdili njezinu važnost. Istaknuto je da bi jedan od ključnih preduvjeta za postizanje poboljšanja u ovom području bilo ciljano državno / javno financiranje.

U vezi s preporukom da se **udruge OSI - od početnog kontakta osoba s invaliditetom s pravosudnim tijelima - uključe u postupke individualne procjene OSI koje su žrtve kaznenih djela i/ili prekršaja, kao i da predstavnici tih udruga preuzmu ulogu osoba od povjerenja**, sudionici su podržali takav pristup.

Predstavnici svih vrsta institucija, tj. sve skupine dionika snažno su podržale svrhu projekta, njegove ciljeve i preporuke. Izrazili su spremnost za uključivanje u zajedničke aktivnosti, osobito u aktivnosti osposobljavanja (bilo kao pružatelji edukacije/treninga ili kao sudionici, ovisno o njihovom području rada i nadležnostima), te za međusobnu suradnju u cilju osiguranja pristupa pravima zajamčenim Direktivom o žrtvama za osobe s invaliditetom.

**2.2. Popis zagovaračkih aktivnosti (kronoloških redom):**

1) Okrugli stol s dionicima – predstavnici/e tijela i institucija javnog sektora – sudionici iz Zagreba, 13.V. 2021.;

2) Okrugli stol s dionicima – predstavnici/e tijela i institucija javnog sektora – sudionici iz drugih regija Hrvatske, 13.V. 2021.;

3) Okrugli stol s dionicima – predstavnici/e organizacija civilnog društva (OCD) koje predstavljaju osobe s invaliditetom i OCD aktivnih na području prava žrtava – sudionici iz Zagreba, 14. V. 2021.;

4) Okrugli stol s dionicima – predstavnici/e organizacija civilnog društva (OCD) koje predstavljaju osobe s invaliditetom i OCD aktivnih na području prava žrtava – sudionici iz drugih regija Hrvatske, 14. V. 2021.;

5) Sastanak s predstavnicima/ama Ministarstva rada, mirovinskog sustava, obitelji i socijalne politike (MROSP), 2. IX. 2021.;

6) Sastanak s predstavnicima/ama Ministarstva pravosuđa i uprave (MPU) i Pravosudne akademije, 6. IX. 2021.;

7) Sastanak s predstavnicima/ama Odjela za podršku žrtvama i svjedocima pri županijskim sudovima, 7. IX. 2021.;

8) Sastanak s predstavnicima/ama udruga osoba s invaliditetom i Mreže podrške i suradnje za žrtve i svjedoke kaznenih djela, 10. IX. 2021.

9) Sastanak s predstavnicima/ama Policijske akademije, Ministarstvo unutarnjih poslova (MUP)

14. IX. 2021.;

10) Sastanak s predstavnicima/ama Odvjetničke akademije Hrvatske odvjetničke komore, 16. IX. 2021

**2.3. Popis sudionika/ca (abecednim redom):**

*Ivana ANDRIJAŠEVIĆ, Udruga za podršku žrtvama i svjedocima*
*Ljiljana BAČIĆ JOZIĆ, Centar za socijalnu skrb Zagreb*
*Josipa BARIČEVIĆ, Općinsko državno odvjetništvo u Rijeci*

*Iva BARIĆ MILOJKOVIĆ, Županijski sud u Osijeku*
*Marija BARILIĆ, ravnateljica Uprave za obitelj i socijalnu politiku, MROSP*
*Marija BOROVEC, MROSP*
*Anita CRNKOVIĆ PENIĆ, Služba za potporu žrtvama i svjedocima, MPU*
*Iva ČATIPOVIĆ, SOS Rijeka – Centar za nenasilje i ljudska prava*
*Tamara ČATLAK CINDRO, Županijski sud u Splitu*
*Sanja DELAČ FABRIS, Policijska uprava istarska*
*Anamaria DROŽĐAN-KRANJČEC, Ženska soba/Mreža podrške i suradnje za žrtve i svjedoke kaznenih djela*
*Ana ERGOVIĆ KUZMANOVIĆ, Županijski sud u Zagrebu*
*Željka GRBAC, MROSP*
*Maja GREGUROVIĆ, Policijska uprava koprivničko-križevačka*
*Tara GRŠKOVIĆ, Županijski sud u Osijeku*
*Helena HAŠPL-JURIŠIĆ, MROSP*
*Ema HRVATIN, Županijski sud u Sisku*
*Luka KELLER, Hrvatski savez udruga osoba s tjelesnim invaliditetom (HSUTI)*
*Dora KOPUN, Hrvatski savez slijepih (HSS)*
*Katarina KOVAČIĆ, Centar za socijalnu skrb Varaždin*
*Alica JAKUPOVIĆ-ROSIĆ, Policijska uprava istarska*
*Jadranka JURINJAK, voditeljica Službe za ljudska prava i temeljne slobode, Uprava za ljudska prava, nacionalne manjine i etiku, MPU*
*Suzana KIKIĆ, viša predavačica Visoke policijske škole, Policijska akademija, MUP*
*Jadranka KRSTIĆ, Hrvatski savez gluhih i nagluhih (HSGN)*
*Sandra LIPOVAC, Odjel za podršku žrtvama i svjedocima Županijskog suda u Rijeci*
*Andreja MAKAR, Ured Pravobranitelja za osobe s invaliditetom*
*Dragana MARINA, Županijski sud u Zadru*
*Joško MATIĆ, Udruga invalida rada Zagreba (UIRZ)*
*Ivona MLAKAR, Hrvatski savez gluhih i nagluhih (HSGIN)*
*Karmen NOVAK HRGOVIĆ, Visoki prekršajni sud Republike Hrvatske*
*Andrea POSAVEC FRANIĆ, ravnateljica Pravosudne akademije*
*Jasminka PRIBANIĆ, Županijski sud u Rijeci*
*Štefica ROGINIĆ, voditeljica SOIH SOS – telefona za žene s invaliditetom žrtve nasilja*
*Vesna ROSIĆ KAUZLARIĆ, Policijska uprava zagrebačka*
*Leke SOKOLAJ, Hrvatski savez udruga invalida rada (HSUIR)*
*Vedrana ŠIMUNDŽA NIKOLIĆ, pomoćnica ministra, Uprava za kazneno pravo, MPU*
*Mislav ŠVIGIR, Policijska uprava zagrebačka*
*Sandra TURKANOVIĆ, Ženska grupa Karlovac „Korak“*
*Lorena VOVK, Zajednica saveza osoba s invaliditetom Hrvatske (SOIH)*
*Justina ZAJC, prevoditeljica za znakovni jezik, Hrvatski savez gluhih i nagluhih (HSGN)*

*Branka ZEČEVIĆ, voditeljica Službe za politike za osobe s invaliditetom i druge socijalno osjetljive skupine, MROSP*

Sudionici iz projektnog tima projekta ARVID:

*Zoran BURIĆ, nacionalni ekspert/Pravni fakultet Sveučilišta u Zagrebu*
*Ivana ETEROVIĆ, Hrvatski pravni centar*
*Vesna GRUBIĆ, direktorica, Hrvatski pravni centar*
*Nikica HAMER VIDMAR, voditeljica Službe za podršku žrtvama i svjedocima, Uprava za kazneno pravo, MPU*
*Elizabeta IVIČEVIĆ KARAS, glavna stručnjakinja/Pravni fakultet Sveučilišta u Zagrebu*
*Darijo JURIŠIĆ, zamjenik pravobraniteljice, Ured pravobraniteljice za osobe s invaliditetom*
*Sara KAURIN, Hrvatski pravni centar*
*Anka SLONJŠAK, Pravobraniteljica za osobe s invaliditetom*
*Miren ŠPEK, Udruga za podršku žrtvama i svjedocima*

## *3. Informativni materijali za osobe s invaliditetom*

### *3.1. Pravo građana Europske unije koji su žrtve kaznenih djela*

- **pravo na dobivanje informacija i potpore;**
- **pravo na sudjelovanje u kaznenim postupcima;**
- **pravo na zaštitu i na posebnu zaštitu ako ste žrtva s posebnim potrebama zaštite.**

**Pravo na dobivanje informacija i potpore uključuje sljedeća prava:**

- pravo razumjeti i biti razumljiv,
- pravo na dobivanje informacija od prvog kontakta s nadležnim tijelom,
- pravo podnijeti prijavu za kazneno djelo na jeziku koji razumijete ili uz dobivanje potrebne jezične pomoći,
- pravo na pisanu potvrdu vaše formalne prijave koju ste podnijeli nadležnom tijelu, navodeći osnovne elemente predmetnog kaznenog djela, na jeziku koji razumijete ako to zatražite (besplatno),
- pravo na dobivanje informacija o vašem predmetu: o svakoj odluci o nepokretanju ili okončanju istrage ili o nepoduzimanju kaznenog progona protiv počinitelja, o vremenu i mjestu suđenja te prirodi optužbi protiv počinitelja, o svakoj pravomoćnoj presudi i svakoj informaciji kojom dobivate saznanja o stanju kaznenog postupka (osim u iznimnim slučajevima ako takva obavijest može štetno utjecati na pravilno rješavanje predmeta),
- pravo da budete obaviješteni, na vaš zahtjev, o puštanju na slobodu ili bijegu osobe koja je bila zadržana, kao i o svim relevantnim mjerama koje su poduzete radi vaše zaštite,

- pravo na usmeno i pisano prevođenje u kaznenom postupku,
- pravo na pristup službama za potporu žrtvama,
- pravo na djelotvornu psihološku i drugu stručnu pomoć i potporu službi za potporu žrtvama.

**Pravo na sudjelovanje u kaznenim postupcima uključuje sljedeća prava:**

- pravo na saslušanje,
- pravo na preispitivanje odluke o nepoduzimanju kaznenog progona, osim ako takva odluka ima za posljedicu izvansudsku nagodbu u skladu sa zakonom,
- pravo na zaštitne mjere u okviru službi za popravljanje štete – država je dužna poduzeti mjere radi vaše zaštite od sekundarne i ponovljene viktimizacije, zastrašivanja i odmazde,
- pravo na pravnu pomoć, ako imate status stranke u kaznenom postupku,
- pravo na naknadu troškova,
- pravo na povrat imovine koja je bila privremeno oduzeta u okviru kaznenog postupka, osim ako je ona potrebna u svrhu kaznenog postupka,
- pravo na odluku o naknadi štete od strane počinitelja u okviru kaznenog postupka,
- **ako imate boravište u državi članici različitoj od one u kojoj je kazneno djelo počinjeno, imate pravo podnijeti prijavu nadležnim tijelima države članice boravišta, ako to ne možete učiniti u državi članici u kojoj je počinjeno kazneno djelo ili ako u slučaju teškog kaznenog djela (kako je određeno nacionalnim pravom) to ne želite.**

**Pravo na zaštitu uključuje sljedeća prava:**

- pravo na zaštitu od sekundarne i ponovljene viktimizacije, zastrašivanja i odmazde, uključujući i zaštitu od rizika emocionalne i psihološke štete, te zaštitu dostojanstva tijekom ispitivanja i svjedočenja,
- pravo na izbjegavanje kontakta s počiniteljem,
- pravo na zaštitu tijekom istraga u kaznenom postupku,
- pravo na zaštitu privatnosti,
- pravo na posebnu zaštitu tijekom kaznenog postupka, ako imate posebne potrebe zaštite. Posebne se potrebe zaštite utvrđuju kroz postupak pojedinačne procjene potreba kojeg provodi tijelo koje vas ispituje. Službe za podršku žrtvama igraju važnu ulogu u ovom postupku, jer tijelima koje Vas ispituje mogu uputiti preporuke vezane uz primjenu potrebnih mjera zaštite. To je još jedan od razloga zbog kojeg je dobro da se što prije obratite službama za podršku žrtvama,
- pravo na posebnu zaštitu tijekom kaznenog postupka, ako ste dijete.

Ovaj materijal će se moći pronaći na sljedećim poveznicama:

- Ministarstva pravosuđa i uprave
- Ureda Pravobraniteljice za osobe s invaliditetom

- Udruge za podršku žrtvama i svjedocima
- Hrvatskog pravnog centra

Na ovoj poveznici Ministarstva pravosuđa i uprave mogu se pronaći kontakti, Mreže podrške i suradnje za žrtve i svjedoke kaznenih djela i prekršaja, ostalih organizacija koje pružaju psihosocijalnu i pravnu pomoć te interaktivna karta mjesta na kojima žrtve mogu pronaći pomoć i podršku na području Republike Hrvatske.

**Kontakti Odjela za podršku žrtvama i svjedocima pri županijskim sudovima**

| **ODJELI ZA PODRŠKU ŽRTVAMA I SVJEDOCIMA** | | |
|---|---|---|
| **Županijski sud u Osijeku** | adresa: | Europska avenija 7, 31 000 Osijek |
| | tel: | 031/228-500 |
| | e-mail: | podrska-svjedocima@zsos.pravosudje.hr |
| **Županijski sud u Rijeci** | adresa: | Žrtava fašizma 7, 51000 Rijeka |
| | tel: | 051/355-645 |
| | e-mail: | podrska-svjedocima-ri@pravosudje.hr |
| **Županijski sud u Sisku** | adresa: | Trg Ljudevita Posavskog 5, 44000 Sisak |
| | tel: | 044/524-419 |
| | e-mail: | podrska-svjedocima-sk@zssk.pravosudje.hr |
| **Županijski sud u Splitu** | adresa: | Gundulićeva 29a, 21000 Split |
| | tel: | 021/387-543 |
| | e-mail: | podrska-svjedocima-st@pravosudje.hr |
| **Županijski sud u Vukovaru** | adresa: | Županijska 33, 32000 Vukovar |
| | tel: | 032/452-529 |
| | e-mail: | podrska-svjedocima-vu@pravosudje.hr |
| **Županijski sud u Zadru** | adresa: | Borelli 9, 23 000 Zadar |
| | tel: | 023/203-640 |
| | e-mail: | podrska-svjedocima@pravosudje.hr |
| **Županijski sud u Zagrebu** | adresa: | Trg N.Š. Zrinskog 5, 10 000 Zagreb |
| | tel: | 01/4801-062 |
| | e-mail: | podrska-svjedocima-zg@pravosudje.hr |

Odjeli sa sjedištem u županijskim sudovima djeluju i na nadležnim općinskim i prekršajnim sudovima.

Ukoliko ne živite u Osijeku, Rijeci, Sisku, Splitu, Vukovaru, Zadru ili Zagrebu, svejedno možete kontaktirati jedan od navedenih odjela za podršku žrtvama i svjedocima.

U županijama u kojima nisu ustrojeni odjeli, djeluju udruge u okviru „Mreže podrške i suradnje za žrtve i svjedoke kaznenih djela“

| ŽUPANIJA | NAZIV PARTNERA | KONTAKT |
|---|---|---|
| VARAŽDINSKA<br><br>MEĐIMURSKA | **UDRUGA ZA PODRŠKU ŽRTVAMA I SVJEDOCIMA** | 095/116 00 66<br><br>e-mail: varazdin@pzs.hr<br><br>http://pzs.hr/ |
| ISTARSKA | **CENTAR ZA GRAĐANSKE INICIJATIVE POREČ** | 095/3500-733<br><br>e-mail: podrskacgi@gmail.com<br><br>http://www.cgiporec.hr/ |
| POŽEŠKO-SLAVONSKA<br><br>BJELOVARSKO-BILOGORSKA | **CENTAR ZA PODRŠKU I RAZVOJ CIVILNOG DRUŠTVA DELFIN** | 034/411-780<br><br>e-mail: delfin.zamir@gmail.com<br><br>www.delfin-pakrac.com |
| DUBROVAČKO-NERETVANSKA | **DEŠA – DUBROVNIK** | 020/311-625<br><br>e-mail: zip@desa-dubrovnik.hr |

| | | |
|---|---|---|
| | | www.desa-dubrovnik.hr |
| KOPRIVNIČKO-KRIŽEVAČKA<br><br>BJELOVARSKO-BILOGORSKA | **UDRUGA "HERA KRIŽEVCI“ – ZA ZAŠTITU I PROMICANJE LJUDSKIH PRAVA** | 048/271-335<br><br>e-mail: info@udruga-hera.info<br><br>www.udruga-hera.info |
| BRODSKO-POSAVSKA | **INFORMATIVNO PRAVNI CENTAR** | 035/448-533<br><br>e-mail: info@ipc.com.hr<br><br>www.ipc.com.hr |
| KARLOVAČKA<br><br>LIČKO-SENJSKA | **ŽENSKA GRUPA KARLOVAC „KORAK“** | 047/600-392<br><br>e-mail: podrska.korak@gmail.com<br><br>www.grupakorak.hr |
| VIROVITIČKO-PODRAVSKA | **S.O.S. VIROVITICA - SAVJETOVANJE, OSNAŽIVANJE, SURADNJA** | 033/721-500<br><br>e-mail: sos.vt@email.t-com.hr<br><br>www.sosvt.hr |
| KRAPINSKO-ZAGORSKA | **CESI - SOS TELEFON I SAVJETOVALIŠTE** | 049/492-688<br><br>e-mail: zrtveisvjedoci@cesi.hr<br><br>http://www.cesi.hr/hr/sos/ |
| ŠIBENSKO-KNINSKA | **UDRUGA ZVONIMIR** | 022/662-554 |

| | | |
|---|---|---|
| | | e-mail:<br>zvonimir@zvonimir.hr<br><br>www.zvonimir.hr |
| **GRAD ZAGREB**<br>**KOORDINATOR MREŽE:** | **ŽENSKA SOBA – CENTAR ZA SEKSUALNA PRAVA** | 01/6119-174<br><br>e-mail:<br>zenska.soba@zenskasoba.hr;<br>savjetovaliste@zenskasoba.hr<br><br>http://zenskasoba.hr/ |

### *3.2. Prava hrvatskih građana koji su žrtve kaznenih djela*

Žrtvu kaznenog djela su tijela kaznenog postupka dužna informirati o njezinim pravima. Dužna su to učiniti već prilikom poduzimanja prve radnje u kaznenom postupku u kojoj žrtva sudjeluje. Obavijest o pravima žrtvi treba biti dana na razumljiv način i tijela kaznenog postupka dužna su se uvjeriti da je žrtva danu obavijest o pravima razumjela. U praksi je uobičajeno da policijski službenici žrtvama predaju pisanu pouku o pravima koja sadržava i kontakt podatke dostupnih službi za podršku žrtvama kaznenih djela. Moguće je da žrtva u kasnijim fazama postupka dobije sličnu pouku o pravima i od državnog odvjetništva i od suda. U ovom su dokumentu prava o kojima se žrtva obavještava dostavom pisane pouke o pravima su objašnjena detaljno i na razumljiv način.

#### 3.2.1. Prava svih žrtava kaznenih djela:

#### 1. Pravo žrtve na pristup službama za potporu žrtvama kaznenih djela

Kao žrtva kaznenog djela imate pravo zatražiti pomoć službi za potporu žrtvama. Njihova uloga je pomoći vam da se lakše nosite s posljedicama kaznenog djela te da se lakše snađete u kaznenom i prekršajnom postupku. Pri pojedinim županijskim sudovima djeluju odjeli za pružanje podrške žrtvama i svjedocima. Oni će vam pružiti osnovne informacije o pravima koja imate kao žrtva, te o kaznenom i prekršajnom postupku koji će se voditi nakon što je kazneno djelo ili prekršaj prijavljeno policiji. Tim odjelima se možete javiti i prije no što je kazneno djelo ili prekršaj prijavljen policiji. Odjeli pružaju i emocionalnu podršku. Nakon što dobijete osnovne informacije o kaznenom ili prekršajnom postupku, kako bi vam sudjelovanje u kaznenom postupku bilo što manje tegobno, službenici odjela će vas dočekati pri ulasku u sud te će cijelo vrijeme boraviti s vama u čekaonici i, prema potrebi, u sudnici. Također, uputit će vas na državne i nevladine organizacije u kojima, s obzirom na vaše potrebe, možete dobiti odgovarajuću stručnu pomoć. Važno je da kontaktirate službe za podršku jer vam one kroz aktivno uključivanje u kazneni

postupak – preuzimanjem uloge osobe od povjerenja ili sudjelovanjem u postupku pojedinačne procjene potreba žrtve kroz slanje preporuka nadležnim tijelima – mogu značajno olakšati nošenje s posljedicama kaznenog djela i negativnim iskustvima vezanim uz sudjelovanje u kaznenom postupku.

**2. Pravo žrtve na djelotvornu psihološku i drugu stručnu pomoć i potporu tijela, organizacije ili ustanove za pomoć žrtvama kaznenih djela**

Emocionalnu podršku pružaju odjeli za pružanje podrške žrtvama i svjedocima pri županijskim sudovima. Osnovnim informacijama o tome što možete očekivati u kaznenom ili prekršajnom postupku pripremit će vas za njega. Uz to, pratit će vas cijelo vrijeme vašeg boravka na sudu. Osim u odjelima, pomoć možete zatražiti i u centru za socijalnu skrb te ustanovama za psihološku pomoć, kao što su Služba za školsku medicinu, mentalno zdravlje i prevenciju ovisnosti Hrvatskog zavoda za javno zdravstvo, te centri za psihosocijalnu pomoć u pojedinim županijama (koji primarno pružaju pomoć stradalnicima Domovinskog rata). Udruge, odnosno organizacije civilnoga društva koje se bave pružanjem pomoći i podrške žrtvama kaznenih djela pružaju i neke oblike pravne pomoći na način da će vas dodatno savjetovati o pravima i mogućnostima koje imate u kaznenom postupku, a u nekima je moguće primiti i jednokratnu novčanu pomoć. U mnogim udrugama možete dobiti i psihološku pomoć, a osobe koje rade u udruzi mogu preuzeti ulogu osobe od povjerenja u kaznenom postupku te se aktivno uključiti u postupak pojedinačne procjene potreba žrtve kroz slanje preporuka nadležnim tijelima.

**3. Pravo žrtve na zaštitu od zastrašivanja i odmazde**

Ako vas počinitelj na bilo koji način zastrašuje ili prijeti da će vam se osvetiti, važno je to prijaviti policiji, državnom odvjetniku ili sudu (npr. osobno dolaskom u policijsku postaju, telefonom, emailom, pisanim podneskom sudu i/ili državnom odvjetništvu). Ako ste zastrašeni, tijela koja sudjeluju u kaznenom postupku dužna su poduzeti mjere zaštite, poput sprječavanja susreta s počiniteljem u policiji, državnom odvjetništvu ili sudu. Ako vam počinitelj prijeti da će počiniti novo kazneno djelo, ili dovršiti započeto, ili vas na drugi način uznemiruje ili uhodi, važno je to odmah prijaviti policiji. U tom slučaju počinitelju može biti određen istražni zatvor kao mjera koja uključuje oduzimanje slobode i smještaj u zatvor. Može mu se odrediti i mjera zabrane približavanja, odnosno zabrane uhođenja ili uznemiravanja vas kao žrtve. Ako je počinitelju već izrečena mjera zabrane približavanja, uznemiravanja ili uhođenja, a ipak vam se približi ili vas uznemiri, važno je i to odmah prijaviti policiji. Ona će vas zaštiti i poduzeti korake potrebne da se počinitelju koji krši zabranu približavanja, uznemiravanja ili uhođenja odredi istražni zatvor. Naime, o kršenju zabrane policija će obavijestiti državno odvjetništvo, koje onda sudu može predložiti određivanje istražnog zatvora protiv počinitelja. Odluku o istražnom zatvoru uvijek donosi sud.

**4. Pravo na prevođenje i tumačenje**

Žrtva ima pravo u postupku se služiti svojim jezikom, uključujući i znakovni jezik gluhih i gluhoslijepih. Ako se radnja u postupku ne vodi na jeziku koji žrtva govori i razumije, tijelo koje provodi radnju dužno je osigurati usmeno prevođenje, odnosno prevođenje ili tumačenje znakovnim jezikom gluhih i gluhoslijepih onoga što žrtva odnosno drugi iznosi te isprava i drugog dokaznog materijala koji se izvodi.

**5. Pravo žrtve na zaštitu dostojanstva kada se ispituje kao svjedok**

Kao žrtva kaznenog djela, imate pravo biti saslušani, da tijela kaznenog postupka – policija, državno odvjetništvo i sud, čuju ono što želite reći. Pri tome moraju prema vama postupati obzirno. Tijela kaznenog postupka dužna su vas zaštititi tijekom svjedočenja na način da ne dopuste nevažna ili zakonom nedopuštena pitanja. Sud je dužan voditi računa o zaštiti vaše privatnosti i tijekom svjedočenja može isključiti javnost ako je to potrebno radi zaštite vaše privatnosti ili obiteljskog života.

**6. Pravo žrtve da bude saslušana bez neopravdane odgode te da se daljnja saslušanja provode samo u mjeri u kojoj je to nužno za potrebe kaznenog postupka**

Kao žrtva imate pravo biti saslušani i da vas tijela kaznenog postupka ispitaju bez nepotrebnog odgađanja. U pravilu, žrtvu najprije ispituje policija. Policijsko ispitivanje žrtve ne provodi se prema strogim zakonom pripisanim pravilima i ne može se koristiti kao dokaz u kaznenom postupku. Ono služi tome da policija dobije osnovne informacije o kaznenom djelu potrebne da bi se počinitelja moglo procesuirati, a i da bi se žrtvi osigurala odgovarajuća zaštita. Zato žrtvu, u pravilu, nakon policije još jednom ispituje državni odvjetnik ili po njegovom nalogu istražitelj, a naposljetku žrtva svjedoči pred sudom. No, ako treba ispitati dijete ili žrtvu koja je ranjiva zbog svoje starije dobi, zdravstvenog stanja ili invaliditeta, ili žrtvu za koju je tijelo koje provodi ispitivanje utvrdilo da ju je potrebno posebno zaštititi tijekom ispitivanja, ispitivanje će se umjesto pred državnim odvjetnikom provesti pred sucem istrage. Da bi tijelo koje provodi ispitivanje moglo ocijeniti koje su vaše potrebe i je li vam kao žrtvi potreba posebna zaštita, postavljat će određena pitanja te je važno da kažete osjećate li se ugroženo i što vas plaši. Ako je određena posebna zaštita, ispitivanje pred sucem istrage može se provesti bez izravnog kontakta između vas i okrivljenika, što znači da tijekom ispitivanja počinitelj neće biti u istoj prostoriji kao i vi. Vi ćete biti smješteni u posebnu prostoriju, pitanja ćete primiti putem slušalica, a ispitivanje će se snimiti audio-video uređajem. U tom slučaju, u pravilu se nećete morati ispitati ponovno na raspravi pred sudom, nego će se reproducirati snimka vašeg ispitivanja koja se u postupku može koristiti kao dokaz. Time se izbjegava stres i teret koji žrtvama može donijeti opetovano svjedočenje o kaznenom djelu pa vam se tako pruža zaštita od mogućih dodatnih traumi.

## 7. Pravo žrtve na pratnju osobe od povjerenja pri poduzimanju radnji u kojima sudjeluje

Pravo na pratnju osobe od povjerenja odnosi se na pravo da kao žrtva ne budete sami u postupku pa vas tijekom kaznenog postupka može pratiti osoba kojoj vjerujete, koja vam pruža emocionalni i psihološki oslonac. Osoba od povjerenja može biti član obitelji, prijatelj ili druge osobe uz koje se osjećate sigurno. Osoba od povjerenja može biti i službenik odjela za podršku žrtvama i svjedocima ili, primjerice, socijalni radnik, ako se u njegovoj/njezinoj pratnji osjećate sigurnije i ugodnije ili osoba zaposlena u organizaciji civilnog društva koja je dio sustava podrške i s kojom ste u kontaktu. Osoba od povjerenja ne bi trebala biti osoba koja i sama može biti saslušana kao svjedok u kaznenom postupku, s obzirom da u tom slučaju ne može biti prisutna pri ispitivanju vas kao žrtve pa vam u tom smislu nije u mogućnosti pružati potporu. Imate pravo da osoba od povjerenja bude s vama tijekom cijelog postupka - u policiji, državnom odvjetništvu i na sudu.

## 8. Pravo žrtve da se medicinski zahvati prema njoj poduzimaju u najmanjoj mjeri i ako su krajnje nužni za potrebe kaznenog postupka

Kao žrtva imate pravo da se medicinski zahvati, kao što su liječnički tjelesni pregledi i druge vrste vještačenja koja uključuju i tjelesni pregled, ograniče na najmanju moguću mjeru, odnosno da se takve medicinske intervencije i vještačenja poduzimaju samo kada je to u interesu kaznenog postupka, ako se dokazi potrebni za kazneni postupak ne bi mogli pribaviti na drugi način i samo ako se mogu poduzeti bez štete za vaše zdravlje. O navedenome moraju voditi računa sva tijela postupka – policija, državno odvjetništvo i sud. U pravilu je za tjelesni pregled koji uključuje ulazak u tjelesne šupljine potreban vaš pristanak. Ako niste pristali na takav pregled, on se može poduzeti samo na temelju obrazloženog naloga suda. Pri tome imate pravo biti upoznati sa sadržajem naloga, uključujući obrazloženje tog naloga. Bilo kakvo vještačenje koje bi podrazumijevalo ulazak u tjelesne šupljine može se poduzeti isključivo na temelju obrazloženog naloga suda.

## 9. Pravo žrtve da podnese prijedlog za progon i privatnu tužbu, da sudjeluje u postupku kao oštećenik, da bude obaviještena o odbacivanju kaznene prijave ili odustajanju državnog odvjetnika od kaznenog progona te pravo da preuzme kazneni progon

Kao žrtva imate pravo podnijeti prijedlog za progon počinitelja, u situacijama kada je počinjeno kazneno djelo za koje državni odvjetnik ne može poduzeti kazneni progon po službenoj dužnosti bez da je žrtva prethodno to predložila. Prijedlog za progon žrtva može podnijeti, primjerice, za kazneno djelo zlostavljanja na radu, u nekim slučajevima prijetnji ili nametljivog ponašanja prema odrasloj osobi. Prijedlog za progon po svom sadržaju jednak je kao i kaznena prijava, odnosno zakonom nije propisano u kojem se obliku prijedlog za progon mora podnijeti pa se može podnijeti u pisanom obliku, ali i usmeno telefonom ili na zapisnik. Jednom kada žrtva podnese prijedlog za progon, državni odvjetnik postupa po službenoj dužnosti, ali je vezan prijedlogom pa tako ako žrtva odustane od prijedloga, odnosno povuče ga, državni odvjetnik je dužan odustati od kaznenog progona. U tome je razlika u postupanju držanog odvjetnika u slučaju kada je podnesen prijedlog

za progon ili je podnesena kaznena prijava za kazneno djelo koje se progoni po službenoj dužnosti. Ako je podnesena kaznena prijava za djelo koje državni odvjetnik progoni po službenoj dužnosti, žrtva koja je kaznenu prijavu podnijela naknadno od nje ne može odustati, u smislu da državni odvjetnik nije vezan njezinim postupanjem.

Žrtva ima pravo podnijeti i privatnu tužbu za kaznena djela koja se progone po privatnoj tužbi, a za koja državni odvjetnik nije ovlašten poduzimati kazneni progon, kao što je kazneno djelo tjelesne ozljede (ako tjelesna ozljeda nije teška, jer za tešku tjelesnu ozljedu progoni državni odvjetnik po službenoj dužnosti), prisile (osim ako je prisila počinjena iz mržnje, prema djetetu, osobi s invaliditetom ili prema bliskoj osobi), za neke oblike prijetnje, za neka kaznena djela protiv imovine te za kaznena djela protiv časti i ugleda. U tom slučaju žrtva kao privatni tužitelj progoni počinitelja pred sudom, predlaže dokaze, a državni odvjetnik ne sudjeluje u kaznenom postupku.

Kao žrtva imate pravo sudjelovati u kaznenom postupku kao oštećenik. Oštećenik nije svaka žrtva, nego samo ona žrtva koja želi aktivno sudjelovati u kaznenom postupku u cilju promicanja vlastitih procesnih interesa. Kao oštećeniku, žrtvi pripadaju neka dodatna procesna prava – primjerice pravo da u istrazi državnom odvjetniku podnosi prijedloge da se istraga dopuni i druge prijedloge radi ostvarivanja prava propisanih zakonom, pravo sudjelovanja na sjednici optužnog vijeća, pripremnom ročištu i na raspravi, pravo aktivnog sudjelovanja u dokaznom postupku na raspravi (primjerice u odnosu na ispitivanje svjedoka na raspravi), (ograničeno) pravo na podnošenje žalbe. Sva ta prava može ostvarivati samo ona žrtva koja je preuzela ulogu oštećenika u kaznenom postupku. No, da bi žrtva mogla sudjelovati u ulozi oštećenika u kaznenom postupku, mora se prijaviti se za takvo sudjelovanje – policiji, državnom odvjetništvu ili sudu.

Državni odvjetnik dužan je obavijestiti žrtvu o tome da je odbacio kaznenu prijavu ili odustao od kaznenog progona, a u tome slučaju žrtva može preuzeti kazneni progon. Preuzimanjem kaznenog progona žrtva zapravo stupa na mjesto državnog odvjetnika, što znači da daljnje vođenje kaznenoga postupka i njegov ishod u značajnoj mjeri ovisi o angažmanu žrtve. To znači da u daljnjem tijeku kaznenog postupka Preuzimanjem kaznenog progona žrtva ujedno preuzima i ulogu oštećenika, odnosno, preuzimanje progona ima značenje prijave za sudjelovanje u kaznenom postupku u svojstvu oštećenika. Preuzimanje kaznenog progona žrtvi nameće obveze u pogledu utroška vremena, budući da oštećenik koji je preuzeo progon sam pred sudom mora predlagati dokaze i zastupati optužbu, kao i obveze u pogledu financijskih sredstava, budući da oštećenik koji je preuzeo kazneni progon mora sam snositi troškove postupka.

## 10. Pravo žrtve na obavijest državnog odvjetnika o poduzetim radnjama i mogućnosti podnošenja pritužbe višem državnom odvjetniku

Kao žrtva imate pravo biti informirani o tijeku postupka, a te informacije možete i tražiti. Tako po isteku dva mjeseca od podnošenja kaznene prijave možete od državnog odvjetnika tražiti obavijest o poduzetim radnjama. Ako vas državni odvjetnik nije obavijestio o poduzetim radnjama, a to je

dužan u roku od trideset dana od zaprimljenog zahtjeva, ili ako niste zadovoljni danom obaviješću ili poduzetim radnjama, možete podnijeti pritužbu višem državnom odvjetniku.

### 11. Pravo žrtve da, na svoj zahtjev, bude obaviještena o ukidanju istražnog zatvora, bijegu okrivljenika i otpuštanju osuđenika iz zatvora te mjerama poduzetim u cilju njezine zaštite

Ako je okrivljeniku određen pritvor, istražni zatvor ili je počinitelj na izdržavanju kazne zatvora, kao žrtva imate pravo biti obaviješteni o ukidanju pritvora, odnosno istražnog zatvora, bijegu okrivljenika ili otpuštanju počinitelja iz zatvora, ali samo ako to zatražite. Obavijest o puštanju okrivljenika iz pritvora ili istražnog zatvora primit ćete putem policije, kao i obavijest o bijegu počinitelja iz zatvora, a obavijest o otpuštanju počinitelja s redovnog ili uvjetnog otpusta putem Službe za podršku žrtvama i svjedocima Ministarstva pravosuđa i uprave. Dakle, možete odabrati želite li primiti obavijest o puštanju okrivljenika, odnosno počinitelja na slobodu. Tijela kaznenog postupka dužna su vas pitati želite li primiti tu obavijest, a vi u svakom slučaju možete izraziti tu želju. Ako zatražite, bit ćete obaviješteni i o mjerama koje su poduzete u cilju vaše zaštite. Mjere koje se u tom slučaju poduzimaju najčešće su mjere fizičke zaštite žrtve koje pruža policija.

### 12. Pravo žrtve na obavijest o svakoj odluci o pravomoćnom okončanju kaznenog postupka

Kao žrtva imate pravo primiti obavijest o svakoj pravomoćnoj odluci kojom se okončava kazneni postupak. Ako takvu obavijest ne primite, imate je pravo zatražiti od državnog odvjetništva - ako je odluka donesena tijekom istrage. Ako je donesena u postupku pred sudom, imate je pravo zatražiti od suda.

### 13. Pravo žrtve na druga prava propisana zakonom

Kao žrtva imate i druga prava propisana Zakonom o kaznenom postupku, kao što su pravo na uvid u spis predmeta, pravo da dobijete pisanu potvrdu da ste podnijeli kaznenu prijavu, pravo na pomoć tumača ili druge osobe u slučaju da ne govorite ili ne razumijete jezik tijela kojemu podnosite kaznenu prijavu, te da se u takvom slučaju potvrda o kaznenoj prijavi koju ste podnijeli besplatno prevede na jezik koji razumijete.

Kao žrtva imate i određena prava propisana ne samo Zakonom o kaznenom postupku, nego i drugim zakonima, primjerice Zakonom o obveznim odnosima (kada je na primjer riječ o pravu na naknadu štete), Zakonom o socijalnoj skrbi, Zakonom o zaštiti od nasilja u obitelji i drugim zakonima. Koja druga prava možete ostvariti ovisi o okolnostima počinjenog kaznenog djela te o vašim osobnim i obiteljskim prilikama.

### 14. Pravo žrtve na stručnu pomoć savjetnika na teret proračunskih sredstava pri podnošenju imovinsko-pravnog zahtjeva (za kaznena djela iznad 5 godina)

Žrtva kaznenog djela za koje je propisana kazna zatvora teža od pet godina, ako trpi teže posljedice kaznenog djela, ima pravo na stručnu pomoć savjetnika na teret proračunskih sredstava pri

podnošenju imovinskopravnog zahtjeva. Ovo pravo žrtva može ostvariti tako da sudu uputi zahtjev da joj se imenuje savjetnik, a potom sud imenuje opunomoćenika.

**15. Pravo žrtve na novčanu naknadu iz državnog proračuna (za kaznena djela nasilja s namjerom)**

Kao žrtva ovo pravo možete ostvariti pod sljedećim uvjetima:

- ako ste državljanin Republike Hrvatske odnosno državljanin države članice Europske unije ili na njenom teritoriju ima prebivalište

- ako ste pretrpjeli teške tjelesne ozljede ili teško narušavanje zdravlja kao posljedicu kaznenog djela

- ako je kazneno djelo prijavljeno ili evidentirano policiji ili državnom odvjetništvu u roku od šest mjeseci od dana počinjenja kaznenog djela, neovisno je li počinitelj poznat ili nije

- ako ste podnijeli pisani zahtjev na službenom obrascu i priložili potrebnu dokumentaciju.

Kao žrtva možete ostvariti pravo na naknadu sljedećih troškova:

- troškova liječenja (ako niste zdravstveno osigurani)

- izgubljene zarade do iznosa od 35.000,00 kn.

Bliski krvni srodnik preminule žrtve ima pravo na naknadu zbog gubitka zakonskog uzdržavanja do iznosa od 70.000,00 kn i pogrebnih troškova do iznosa od 5.000,00 kn.

Postupak se pokreće ispunjavanjem službenog obrasca uz koji moraju biti priložene sve potrebne isprave čiji popis je naveden u obrascu.

Obrazac zahtjeva je dostupan u svakoj postaji policije, uredima državnog odvjetnika, općinskim i županijskim sudovima te u elektronskom obliku na službenim internetskim stranicama Ministarstva pravosuđa i uprave Republike Hrvatske (https://pravosudje.gov.hr/UserDocsImages//dokumenti/Žrtve%20i%20svjedoci//Obrazac%20zahtjeva%20za%20novčanu%20naknadu%20žrtvama%20kaznenih%20djela.pdf), Ministarstva unutarnjih poslova Republike Hrvatske, Državnog odvjetništva Republike Hrvatske te općinskih i županijskih sudova.

Zahtjev se podnosi Ministarstvu pravosuđa i uprave u roku od šest mjeseci od dana počinjenja kaznenog djela, a može se podnijeti i kasnije ukoliko žrtva zbog opravdanih razloga nije bila u mogućnosti zahtjev podnijeti u ranije navedenom roku, najkasnije u roku od tri mjeseca od dana kada su prestali opravdani razlozi. Protekom roka od tri godine nakon počinjenja kaznenog djela zahtjev se ne može podnijeti. Policija, državno odvjetništvo i sudovi dužni su vam dati informaciju

o pravu na naknadu, informaciju o tome kome se možete obratiti radi ostvarenja tog prava, dužni su vam dati potrebne obrasce za podnošenje zahtjeva i na vaše traženje dati opće upute i informacije o tome kako ispuniti zahtjev i koja je popratna dokumentacija potrebna.

**16. Pravo žrtve da sudjeluje u kaznenom postupku kao oštećenik i ostvaruje prava propisana zakonom**

Kao što je rečeno pod točkom 9., kao žrtva imate pravo sudjelovati u kaznenom postupku kao oštećenik. Oštećenik nije svaka žrtva, nego samo ona žrtva koja želi aktivno sudjelovati u kaznenom postupku u cilju promicanja vlastitih procesnih interesa. Kao oštećeniku, žrtvi pripadaju neka dodatna procesna prava.

Oštećenik ima pravo biti informiran o svojim pravima, o pomoći, o napretku slučaja. Ima pravo sudjelovati u kaznenom postupku na način da upozorava na činjenice koje su važne za utvrđivanje kaznenog djela, počinitelja i imovinskopravnog odnosno odštetnog zahtjeva. U kaznenom postupku oštećenik se ima pravo služiti vlastitim jezikom. Ima pravo predlagati dokaze na raspravi, postavljati pitanja svjedocima i vještacima te iznositi primjedbe i objašnjenja na njihove iskaze. Oštećenik ima pravo, na kraju dokaznog postupka, iznijeti završni govor. Ima pravo davati izjave te pregledavati spise i predmete koji služe kao dokaz. Oštećenik također ima pravo na fizičku zaštitu u određenim slučajevima uređenim Zakonom o zaštiti svjedoka, kao i pravo na privatnost i zaštitu od sekundarne viktimizacije. Pri ispitivanju, oštećenik ima pravo uskratiti odgovor na pitanja ako je vjerojatno da bi odgovorom izložio sebe ili svog bliskog rođaka teškoj sramoti, znatnoj materijalnoj šteti ili kaznenom progonu.

Oštećenik ima pravo na poduzimanje i nastavak kaznenog progona, ako državni odvjetnik od toga odustane.

Oštećenik ima pravo tražiti naknadu štete od počinitelja, tj. pravo postaviti imovinskopravni zahtjev, te pravo na naknadu troškova postupka. Imovinskopravni zahtjev može se podnijeti tijekom kaznenog postupka do završetka rasprave ili, odvojeno od kaznenog postupka, u građanskoj parnici.

Pravo na pravni savjet i besplatnu pravnu pomoć su također prava oštećenika, ako udovoljavaju uvjetima propisanim Zakonom o besplatnoj pravnoj pomoći. Više informacija možete pronaći na ovoj poveznici.

### 3.2.2. Dodatna prava djece žrtava

1. **Pravo žrtve na opunomoćenika na teret proračunskih sredstava**

Dijete koje je žrtva kaznenog djela ima pravo na besplatnu pomoć opunomoćenika. Opunomoćenika postavlja sud, a troškovi njegovih usluga naplaćuju se iz sredstava državnog

proračuna. Opunomoćenik je odvjetnik, dakle pravnik koji dobro poznaje pravila kaznenog postupka i prava djece u kaznenom postupku. Opunomoćenik će djetetu žrtvi pomoći da razumije kazneni postupak, da razumije svoja prava koja ima u postupku te da najbolji način koristi ta prava u svojem interesu. Opunomoćenik će zastupat dijete na sudu u kaznenom postupku te će djetetu pomoći da ostvari pravo na naknadu štete.

2. **Pravo žrtve na tajnost osobnih podataka**

Dijete žrtva kaznenog djela ima pravo na tajnost osobnih podataka, što znači da svi sudionici kaznenog postupka, policijski službenici, državni odvjetnici, suci, svjedoci vještaci i drugi koji su eventualno sudjelovali u kaznenom postupku, ne smiju nikome davati podatke djeteta koji bi mogli otkriti djetetov identitet niti druge osobne podatke.

3. **Pravo žrtve na isključenje javnosti**

Dijete koje je žrtva kaznenog djela ima pravo na isključenje javnosti pa je tako sud na raspravi dužan isključiti javnost s cijele rasprave ili njezinog dijela, radi zaštite djeteta, odnosno svake osobe mlađe od osamnaest godina.

### 3.2.3. Dodatna prava žrtava kaznenih djela protiv spolne slobode i kaznenog djela trgovanja ljudima

1. **Pravo žrtve da prije ispitivanja razgovara sa savjetnikom na teret proračunskih sredstava**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo da prije ispitivanja razgovarate sa savjetnikom, s time da je taj razgovor za vas besplatan. U najvećem broju slučajeva, najprije policija sa žrtvom obavlja neformalni, obavijesni razgovor, koji se ne može koristiti kao dokaz u kaznenom postupku i ne predstavlja ispitivanje. Formalno ispitivanje provest će državni odvjetnik, ili će se formalno ispitivanje provesti pred sucem. Kada dobijete poziv na ispitivanje, od tijela koje će provesti ispitivanje (državnog odvjetnika ili suda) možete pismenim putem zatražiti da vam se dodijeli savjetnik.

2. **Pravo žrtve na opunomoćenika na teret proračunskih sredstava**

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima, imate pravo na besplatnu pomoć opunomoćenika. Opunomoćenika postavlja sud, a troškovi njegovih usluga naplaćuju se iz sredstava državnog proračuna. Opunomoćenik je odvjetnik, dakle pravnik koji dobro poznaje pravila kaznenog postupka i prava žrtava u kaznenom postupku. Opunomoćenik će vam pomoći da razumijete kazneni postupak, da razumijete svoja prava koja imate u postupku te da najbolji način koristite ta prava u svojem interesu. Opunomoćenik će vas zastupati na sudu u kaznenom postupku te će vam pomoći da ostvarite pravo na naknadu štete.

### 3. Pravo žrtve da je u policiji i u državnom odvjetništvu ispituje osoba istog spola te da je, ako je to moguće, u slučaju ponovnog ispitivanja ispituje ta ista osoba

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima, imate pravo da vas pri ispitivanju u policiji ispituje osoba istog spola kao što ste i vi. U pravilu, žrtvu najprije ispituje policija. Policijsko ispitivanje ne provodi se prema strogim zakonom pripisanim pravilima i ne može se koristiti kao dokaz u kaznenom postupku. Ono služi tome da policija dobije osnovne informacije o kaznenom djelu potrebne da bi se počinitelja moglo procesuirati, a i da bi se žrtvi osigurala odgovarajuća zaštita. Nakon policije, ispitat će vas državni odvjetnik ili, po njegovom nalogu, istražitelj, a zapisnik o tom ispitivanju se može koristiti kao dokaz u kaznenom postupku. Kao žrtva imate pravo da vas policija i državni odvjetnik ispitaju samo jednom (svaki od njih), a dva ili više puta samo ako je to nužno za potrebe kaznenog postupka. No, ponavljanje ispitivanja je ponekad nužno. U tom slučaju imate pravo da vas ispituje onaj isti policijski službenik ili službenica, odnosno isti državni odvjetnik koji vas je već ispitao, odnosno ispitala.

### 4. Pravo žrtve da uskrati odgovor na pitanja koja nisu u vezi s kaznenim djelom, a koja se odnose na strogo osobni život žrtve

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima, imate pravo uskratiti odgovor na pitanje koje se odnosi na vaš strogo osobni život, ako to pitanje nije izravno povezano s kaznenim djelom tako da bi odgovor na njega bio relevantan za dokazivanje okrivljenikove krivnje i kaznenog djela. Primjerice, ne morate odgovoriti na pitanje koliko ste do sada imali partnera ili na pitanje koje se tiče vaših seksualnih sklonosti i navika.

### 5. Pravo žrtve da zahtijeva da bude ispitana putem audio-video uređaja

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima imate pravo tražiti poseban način ispitivanja, prilikom kojeg nećete doći u kontakt s okrivljenikom. Naime, tijekom ispitivanja nalazit ćete se u prostoriji sa sucem, a u njoj mogu biti prisutni i vaš opunomoćenik (odvjetnik) te osoba od povjerenja koju ste sami odabrali. Okrivljenik će biti u drugoj prostoriji. Okrivljenika nećete vidjeti niti čuti, neće vam moći izravno postavljati pitanja, nego će vam pitanja postavljati sudac koji će voditi ispitivanje. Čitavo ispitivanje snimit će se uređajem za audio-video snimanje te će se snimka moći koristiti kao dokaz u kaznenom postupku. Snimka služi tome da vas se kao žrtvu u pravilu ne mora ponovno ispitivati na raspravi, jer će se na raspravi reproducirati snimka vašeg ispitivanja koja će se koristiti kao dokaz. Ako bi iznimno ipak bilo potrebno vaše ponovno ispitivanje, ono će se ponovno provesti na opisani način, bez izravnog kontakta s okrivljenikom.

### 6. Pravo žrtve na tajnost osobnih podataka

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima imate pravo na tajnost osobnih podataka. To znači da svi sudionici kaznenog postupka, policijski službenici, državni odvjetnici, suci, svjedoci vještaci i drugi koji su eventualno sudjelovali u kaznenom

postupku, ne smiju nikome davati vaše osobne podatke koji bi mogli otkriti vaš identitet niti druge osobne podatke.

7. **Pravo žrtve na zahtjev za isključenje javnosti s rasprave**

Kao žrtva kaznenog djela protiv spolne slobode ili kaznenog djela trgovanja ljudima imate pravo na isključenje javnosti pa je tako sud na raspravi dužan isključiti javnost, s cijele rasprave ili njezinog dijela, radi zaštite vaše privatnosti i interesa.

### 3.2.4. Dodatna prava žrtava u odnosu na koje su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite

1. **Pravo žrtve da prije ispitivanja razgovara sa savjetnikom na teret proračunskih sredstava**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo da prije ispitivanja razgovarate sa savjetnikom, s time da je taj razgovor za vas besplatan. U najvećem broju slučajeva, najprije policija sa žrtvom obavlja neformalni, obavijesni razgovor, koji se ne može koristiti kao dokaz u kaznenom postupku i ne predstavlja ispitivanje. Formalno ispitivanje provest će državni odvjetnik, ili će se formalno ispitivanje provesti pred sucem. Kada dobijete poziv na ispitivanje, od tijela koje će provesti ispitivanje (državnog odvjetnika ili suda) možete pismenim putem zatražiti da vam se dodijeli savjetnik.

2. **Pravo žrtve da je u policiji i u državnom odvjetništvu ispituje osoba istog spola te da je, ako je to moguće, u slučaju ponovnog ispitivanja ispituje ta ista osoba**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo da vas pri ispitivanju u policiji ispituje osoba istog spola kao što ste i vi. U pravilu, žrtvu najprije ispituje policija. Policijsko ispitivanje ne provodi se prema strogim zakonom propisanim pravilima i ne može se koristiti kao dokaz u kaznenom postupku. Ono služi tome da policija dobije osnovne informacije o kaznenom djelu potrebne da bi se počinitelja moglo procesuirati, a i da bi vam se kao žrtvi osigurala odgovarajuća zaštita. Nakon policije, ispitat će vas državni odvjetnik ili, po njegovom nalogu, istražitelj, a zapisnik o tom ispitivanju se može koristiti kao dokaz u kaznenom postupku. Kao žrtva imate pravo da vas policija i državni odvjetnik ispitaju samo jednom (svaki od njih), a dva ili više puta samo ako je to nužno za potrebe kaznenog postupka. No, ponavljanje ispitivanja je ponekad nužno. U tom slučaju imate pravo da vas ispituje onaj isti policijski službenik ili službenica, odnosno isti državni odvjetnik koji vas je već ispitao, odnosno ispitala.

3. **Pravo žrtve na uskratu odgovora na pitanja koja nisu u vezi s kaznenim djelom, a koja se odnose na strogo osobni život žrtve**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo uskratiti odgovor na pitanje koje se odnosi na vaš strogo osobni život, ako to pitanje nije izravno povezano s kaznenim djelom tako da bi odgovor na njega bio relevantan za dokazivanje okrivljenikove krivnje i kaznenog djela. Primjerice, ne morate odgovoriti na pitanje koliko ste do sada imali partnera ili na pitanje koje se tiče vaših seksualnih sklonosti i navika.

4. **Pravo žrtve da na zahtjev bude ispitana putem audio-video uređaja**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite imate pravo tražiti poseban način ispitivanja, prilikom kojeg nećete doći u kontakt s okrivljenikom. Naime, tijekom ispitivanja nalazit ćete se u prostoriji sa sucem, a u njoj mogu biti prisutni i vaš opunomoćenik (odvjetnik) te osoba od povjerenja koju ste sami odabrali. Okrivljenik će biti u drugoj prostoriji. Okrivljenika nećete vidjeti niti čuti, neće vam moći izravno postavljati pitanja, nego će vam pitanja postavljati sudac koji će voditi ispitivanje. Čitavo ispitivanje snimit će se uređajem za audio-video snimanje te će se snimka moći koristiti kao dokaz u kaznenom postupku. Snimka služi tome da vas se kao žrtvu u pravilu ne mora ponovno ispitivati na raspravi, jer će se na raspravi reproducirati snimka vašeg ispitivanja koja će se koristiti kao dokaz. Ako bi iznimno ipak bilo potrebno vaše ponovno ispitivanje, ono će se ponovno provesti na opisani način, bez izravnog kontakta s okrivljenikom.

5. **Pravo žrtve na tajnost osobnih podataka**

Kao žrtva kaznenog djela za koju su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo na tajnost osobnih podataka. To znači da svi sudionici kaznenog postupka, policijski službenici, državni odvjetnici, suci, svjedoci vještaci i drugi koji su eventualno sudjelovali u kaznenom postupku, ne smiju nikome davati vaše osobne podatke koji bi mogli otkriti vaš identitet niti druge osobne podatke.

6. **Pravo žrtve na zahtjev za isključenje javnosti s rasprave**

Kao žrtva kaznenog djela za koju su su na temelju pojedinačne procjene utvrđene posebne potrebe zaštite, imate pravo na isključenje javnosti pa je tako sud na raspravi dužan isključiti javnost, s cijele rasprave ili njezinog dijela, radi zaštite vaše privatnosti i interesa.

### 3.2.5. Dodatna prava žrtve nasilja u obitelji (prema ZZNO – članak 6. (1)):

1. **Pravo žrtve da na vlastiti zahtjev, bez odgode, bude obaviještena o ukidanju zadržavanja ili bijegu okrivljenika te stavljanju izvan snage odluke o izricanju zaštitnih mjera i ukidanju mjera opreza ili otpuštanju osuđenika s izdržavanja kazne zatvora**

Ako je okrivljeniku u kaznenom postupku određen pritvor ili istražni zatvor, ili ako mu je u prekršajnom postupku određeno zadržavanje ili neka od zaštitnih mjera, ili mjera opreza, ili je počinitelj na izdržavanju kazne zatvora, kao žrtva imate pravo biti obaviješteni o ukidanju pritvora, istražnog zatvora, zadržavanja, bijegu okrivljenika, stavljanju izvan snage zaštitnih mjera ili ukidanju mjera opreza, ili o otpuštanju počinitelja iz zatvora, ali samo ako to želite. Obavijest ćete u pravilu primiti putem policije, a obavijest o bijegu ili otpuštanju počinitelja iz zatvora putem Službe za podršku žrtvama i svjedocima Ministarstva pravosuđa i uprave. Dakle, na upit tijela kaznenog postupka / prekršajnog postupka (policije, državnog odvjetništva, suda) možete odabrati želite li obavijest o puštanju okrivljenika, odnosno počinitelja na slobodu. Također, ostvarenje navedenog prava i sami možete tražiti od navedenih tijela.

2. **Pravno žrtve na tajnost podataka čijim odavanjem bi se mogla ugroziti njena sigurnost i sigurnost njoj bliskih osoba te isključenje javnosti u postupku pred sudom**

Kao žrtva nasija u obitelji imate pravo na tajnost podataka čijim odavanjem bi se mogla ugroziti vaša sigurnost ili sigurnost vama bliskih osoba. To znači da svi sudionici kaznenog ili prekršajnog postupka, policijski službenici, državni odvjetnici, suci, svjedoci vještaci i drugi koji su eventualno sudjelovali u postupku ne smiju nikome davati, primjerice, podatke o adresi skloništa u koje ste smješteni ili podatke o drugoj privremenoj adresi na koju ste se sklonili od okrivljenika. Također imate pravo na isključenje javnosti u postupku pred sudom pa je tako sud na raspravi dužan isključiti javnost, s cijele rasprave ili njezinog dijela, radi zaštite vaše privatnosti i sigurnosti.

3. **Pravo žrtve na opunomoćenika u postupku**

Kao žrtva imate pravo na opunomoćenika u postupku. Opunomoćenik je odvjetnik, dakle pravnik, koji dobro poznaje pravila kaznenog i prekršajnog postupka i prava žrtava u tim postupcima. Opunomoćenik će vam pomoći da razumijete kazneni postupak, da razumijete svoja prava koja imate u postupku te da najbolji način koristite ta prava u svojem interesu. Opunomoćenik će vas zastupati na sudu u kaznenom postupku te će vam pomoći da ostvarite pravo na naknadu štete. Troškove angažiranja opunomoćenika u pravilu snosite sami, osim ako prema pravilima Zakona o kaznenom postupku ne ostvarite pravo na opunomoćenika na teret proračunskih sredstava, primjerice, ako ste dijete ili žrtva seksualnog delikta ili trgovanja ljudima – u tim slučajevima troškove opunomoćenika snosit će država.

### 4. Pravo žrtve da je u policiji ispituje osoba istog spola

Kao žrtva nasilja u obitelji imate pravo da vas pri ispitivanju u policiji ispituje osoba istog spola kao što ste i vi. U pravilu, žrtvu najprije ispituje policija. Policijsko ispitivanje ne provodi se prema strogim zakonom pripisanim pravilima i ne može se koristiti kao dokaz u kaznenom postupku. Ono služi tome da policija dobije osnovne informacije o kaznenom djelu potrebne da bi se počinitelja moglo procesuirati, a i da bi vam se kao žrtvi osigurala odgovarajuća zaštita. Nakon policije, ispitat će vas državni odvjetnik ili, po njegovom nalogu, istražitelj, a zapisnik o tom ispitivanju se može koristiti kao dokaz u kaznenom postupku. I kada vas je već jednom ispitala policija, ponekad će biti nužno ponovno ispitivanje. U tom slučaju imate pravo da vas ispituje onaj isti policijski službenik ili službenica koji vas je već ispitao, odnosno ispitala.

### 5. Pravo žrtve na izbjegavanje kontakta s počiniteljem prije i tijekom postupka, osim kad prekršajni postupak zahtjeva takav kontakt

Kao žrtva nasilja u obitelji imate pravo da tijela kaznenog ili prekršajnog postupka postupaju na način da se izbjegne mogući kontakt vas i okrivljenika. Primjerice, prilikom ispitivanja u policijskoj postaji ili u državnom odvjetništvu. Postupanje će se organizirati tako da se izbjegne vaš susret, na primjer, u hodniku policijske postaje ili suda. Uz to, možete tražiti poseban način ispitivanja pred sudom prilikom kojeg nećete doći u kontakt s okrivljenikom. Takvo ispitivanje provodi se na način da ćete biti u prostoriji sa sucem, dok je okrivljenik u drugoj prostoriji. Okrivljenika nećete vidjeti niti čuti, neće vam moći izravno postavljati pitanja, nego će vam pitanja postavljati sudac koji će voditi ispitivanje. Čitavo ispitivanje snimit će se uređajem za audio-video snimanje te će se snimka moći koristiti kao dokaz u kaznenom postupku. Snimka služi tome da vas se kao žrtvu u pravilu ne mora ponovno ispitivati na raspravi, jer će se na raspravi reproducirati snimka Vašeg ispitivanja koja će se koristiti kao dokaz. Hoće li se ispitivanje vas kao žrtve provesti na ovaj način, odlučit će sud.

### 6. Pravo žrtve na privremeni smještaj u odgovarajuću ustanovu

Ako u policiji iskažete da želite smještaj u odgovarajuću ustanovu, policijski službenik je dužan o Vašoj potrebi odmah izvijestiti nadležni centar za socijalnu skrb, koji je će uzeti u obzir razloge zbog kojih tražite smještaj i smjestiti vas u odgovarajuću ustanovu tijela socijalne skrbi, druge institucije ili udruge. Također, za rješavanje svog smještaja možete se i izravno obratiti Odjelu za podršku žrtvama i svjedocima, centru socijalne skrbi ili udruzi prema vlastitom izboru. Adrese i telefone ovih institucija i organizacija koje se nalaze na području vašeg stanovanja ćete dobiti u policiji.

### 7. Pravo žrtve na policijsku zaštitu i osiguranje neometanog uzimanja osobnih stvari prilikom napuštanja zajedničkog kućanstva (nalog suda)

Prilikom napuštanja zajedničkog kućanstva, policija će vam pružiti zaštitu temeljem naloga (naredbe) prekršajnog suda, koju sud može izdati nakon pokretanja prekršajnog postupka. U

pravilu sud izdaje ovu mjeru ako okrivljenik nije lišen slobode, no može je izdati i kada je okrivljenik lišen slobode, ako postoji opasnost od nekih drugih članova obitelji U nalogu (naredbi) bi trebalo stajati koje stvari možete uzeti, a radi se o stvarima nužnim za život: (npr. dokumenti, odjeća, obuća, pribor za djecu i sl.). Policijski službenici će zajedno s vama otići u vaš stan i osiguravati neometano uzimanje stvari te fizičku zaštitu od napada.

### *3.3. Kazneni postupak – osnove*

Kazneni postupak skup je pravno uređenih radnji koje poduzimaju različita državna tijela i drugi sudionici kaznenog postupka kada postoji vjerojatnost da je počinjeno kazneno djelo. Kazneno djelo predstavlja povredu temeljnih društvenih vrijednosti, pa društvo na njega reagira kažnjavanjem počinitelja toga djela. Da bi se određena osoba mogla proglasiti krivom za kazneno djelo i kazniti, nužno je provesti kazneni postupak. Kazneni postupak složeni je mehanizam koji prolazi kroz različite stadije u kojima ključnu ulogu imaju različita državna tijela.

#### Tijek kaznenog postupka

Na početku toga postupka obično stoji **policija** koja poduzima inicijalne radnje u vezi sa sumnjom da je počinjeno kazneno djelo. O rezultatima svojega rada policija obavještava državnoga odvjetnika. Na temelju rezultata policijskog rada, **državni odvjetnik** odlučuje hoće li se protiv određene osobe pokrenuti daljnje radnje koje imaju pravni oblik istrage ili istraživanja. Po okončanju istrage ili istraživanja državni odvjetnik odlučuje o podizanju optužnice pred nadležnim sudom.

Nakon što je državi odvjetnik podigao optužnica, **sud** će, na sjednici optužnog vijeća, odlučiti je li optužnica utemeljena na dovoljnom broju pravno valjanih dokaza koji opravdavaju provođenje središnjeg stadija kaznenog postupka – rasprave pred sudom. Rasprava završava donošenjem presude.

Presuda kojom se završava rasprava naziva se prvostupanjskom presudom. Time postupak u pravilu ne završava, jer ona stranka koja nije zadovoljna prvostupanjskom presudom ima mogućnost tu presudu osporavati u postupku pred žalbenim odnosno drugostupanjskim sudom. Žalbeni postupak može rezultirati ili potvrđivanjem ili preinačenjem prvostupanjske presude, čime kazneni postupak u pravilu završava (presuda postaje pravomoćna), ili ukidanjem te presude i vraćanjem postupka u stadij rasprave pred prvostupanjskim sudom.

#### Sudionici u kaznenom postupku

Pored državnih tijela (policije, državnog odvjetništva i suda) u kaznenom postupku sudjeluju i drugi sudionici. Osnovnu ulogu u njemu ima **okrivljenik**, odnosno osoba za koju je vjerojatno da

je počinila kazneno djelo. Čak i kada se kazneno djelo dogodilo pred velikim brojem ljudi i od početka je izvjesno tko je počinitelj kaznenog djela, o toj se osobi u kaznenom postupku ne govori kao o počinitelju kaznenog djela, već se za tu osobu koristi izraz okrivljenik. To je zato što je jedno od osnovnih pravila kaznenog postupka **pretpostavka nedužnosti**, koja znači da se određena osoba ne može smatrati krivom za kazneno djelo prije nego se njezina krivnja utvrdi pravomoćnom sudskom presudom.

Iz pretpostavke nedužnosti također proizlazi da je državni odvjetnik dužan dokazati okrivljenikovu krivnju u kaznenom postupku, i to izvan svake razumne sumnje. To nadalje znači da okrivljenik nije dužan dokazivati svoju nevinost, pa se može u kaznenom postupku braniti i šutnjom. Okrivljenik u kaznenom postupku može angažirati branitelja. **Branitelj** je odvjetnik čija je zadaća da u kaznenom postupku djeluje isključivo u korist okrivljenika.

U kaznenom postupku redovito sudjeluje i **žrtva kaznenog djela**. Kada je određena osoba postala žrtvom kaznenog djela, država je tu osobu dužna zaštititi, između ostalog i tako da učinkovito provede kazneni postupak. To prije svega znači da su država tijela, primarno policija i državno odvjetništvo, dužna temeljito istražiti okolnosti počinjenja kaznenog djela, poduzeti mjere da se identificira i pronađe počinitelj kaznenog djela, i da se počinitelj u zakonito provedenom postupku pred nadležnim sudom kazni.

### Svjedočenje žrtve u kaznenom postupku

Žrtva kaznenog djela u kaznenom će postupku u pravilu sudjelovati kao svjedok, dajući u postupku iskaz o kaznenom djelu koje je počinjeno na njezinu štetu. Žrtva će o okolnostima počinjenja kaznenog djela u pravilu iskazivati nekoliko puta pred različitim državnim tijelima. U pravilu će prvi iskaz davati u policiji. Taj se iskaz, međutim, u kaznenom postupku ne može koristiti kao dokaz. Tijekom istrage ili istraživanja žrtva će iskazivati pred državnim odvjetnikom. Vjerojatno će biti potrebno i da žrtva dođe na raspravu i iskazuje pred sudom.

Kada se žrtva u kaznenom postupku nalazi u ulozi svjedoka država je, osobito kada se radi o ranjivim skupinama žrtava ili žrtvama nasilnih kaznenih djela, dužna poduzeti mjere da bi se žrtvu, u najvećoj mogućoj mjeri, zaštitilo od dodatnih trauma koje iskazivanje o kaznenom djelu i sudjelovanje u kaznenom postupku može prouzročiti za žrtvu. Tako se, u slučaju određenih kategorija žrtava, nastoji osigurati da žrtva u što manjem broju navrata iskazuje o traumatičnom iskustvu kaznenoga djela i nastoji se izbjeći njezina direktna konfrontacija s okrivljenikom.

### Sudjelovanje žrtve u kaznenom postupku u ulozi oštećenika

Osim što će žrtva u kaznenom postupku u pravilu morati sudjelovati u ulozi svjedoka, žrtva ima mogućnost, odnosno može izabrati u postupku sudjelovati i u ulozi oštećenika. Preuzimanje uloge oštećenika žrtvi kaznenog djela omogućuje:

a) da bude, od strane tijela koja vode kazneni postupak, redovito informirana o napredovanju kaznenog postupka,

b) aktivnije sudjelovanje u kaznenom postupku, kroz pravo na prisutnost postupovnim radnjama i predlaganje poduzimanja dodatnih radnji,

c) postavljanje imovinskopravnog zahtjeva u kaznenom postupku, koji omogućava da žrtva već u kaznenom postupku ostvari naknadu štete koja joj je kaznenim djelom prouzročena.

### Prekršajni postupak

Osim kaznenih djela, u hrvatskom pravnom poretku postoji i druga velika skupina kažnjivih ponašanja – prekršaji. Prekršaji se smatraju lakšim povredama od kaznenih djela, pa su i kazne koje su propisane za prekršaj blaže od onih kojima se prijeti mogućim počiniteljima kaznenih djela. To se odražava i na prekršajni postupak koji je jednostavniji i brži od kaznenog postupka. Kod određenih je protupravnih ponašanja katkad teško odrediti radi li se o prekršaju ili o kaznenom djelu. Takva ocjena ovisi o nizu specifičnih okolnosti svakog pojedinog slučaja. U hrvatskom je pravnom sustavu ovaj problem posebno izražen kod nasilja u obitelji, koje se u nekim, blažim slučajevima, smatra prekršajem, dok se teži oblici nasilja u obitelji progone kao kazneno djelo.

### Prava žrtava u prekršajnom postupku

Neovisno o tome vodi li se prekršajni ili kazneni postupak, prava žrtava u osnovi su jednaka. U praksi, realno je očekivati da će se žrtve prekršaja češće suočiti s poteškoćama u ostvarivanju svojih prava. Te poteškoće posljedica su činjenice da Prekršajni zakon posebno ne uređuje prava žrtava. Međutim, nedostatak izričitih zakonskih odredbi nije zapreka da žrtve ostvaruju svoja prava ili kroz odgovarajuću primjenu odredaba Zakona o kaznenom postupku ili kroz izravnu primjenu odredaba Direktive o pravima žrtava kaznenih djela. Kada se radi o žrtvama nasilja u obitelji, takvih poteškoća u praksi ne bi trebalo biti, budući da Zakon o zaštiti od nasilja u obitelji izričito jamči širok katalog prava žrtvama toga prekršaja.

# *4. Trening materijali*

## *4.1. Materijali za obuku za udruge osoba s invaliditetom*

### *4.1.1. Uvodno u odnosu na udruge osoba s invaliditetom*

- osobe s invaliditetom (dalje u tekstu: OSI) se rijetko odlučuju na prijavljivanje kaznenih djela i prekršaja koji su počinjeni na njihovu štetu. Razumno je očekivati da bi ta spremnost bila veća ako bi OSI žrtve kaznenih djela i prekršaja bile upoznate s činjenicom da postoji sustav podrške za žrtve kaznenih djela i prekršaja i da žrtve kaznenih djela i prekršaja imaju prava u postupku čiji je cilj učiniti iskustvo sudjelovanja u kaznenom postupku manje teškim za žrtve. Kako bi se to postiglo, potrebno je udrugama OSI staviti na raspolaganje neke osnovne i lako razumljive informacije vezano uz kazneni postupak, položaj i prava žrtava i usluge sustava podrške kojima se žrtve mogu koristiti. Na temelju tih informacija, udruge OSI mogle bi provesti široku kampanju informiranja korisnika o njihovim pravima kao žrtava kaznenih djela i prekršaja

- Postoje problemi u uspostavljanju odgovarajuće komunikacije između OSI žrtava i službenika nadležnih tijela. Udruge OSI mogle bi pomoći uklanjanju tih prepreka. Njihovo bi znanje, s obzirom na specifičnosti različitih vrsta invaliditeta , moglo biti korisno u informiranju žrtava, osiguravanju razumijevanja danih informacija, osiguranju mobilnosti i drugih potrebnih prilagodbi za OSI, i upućivanju u sustav podrške i pomoći

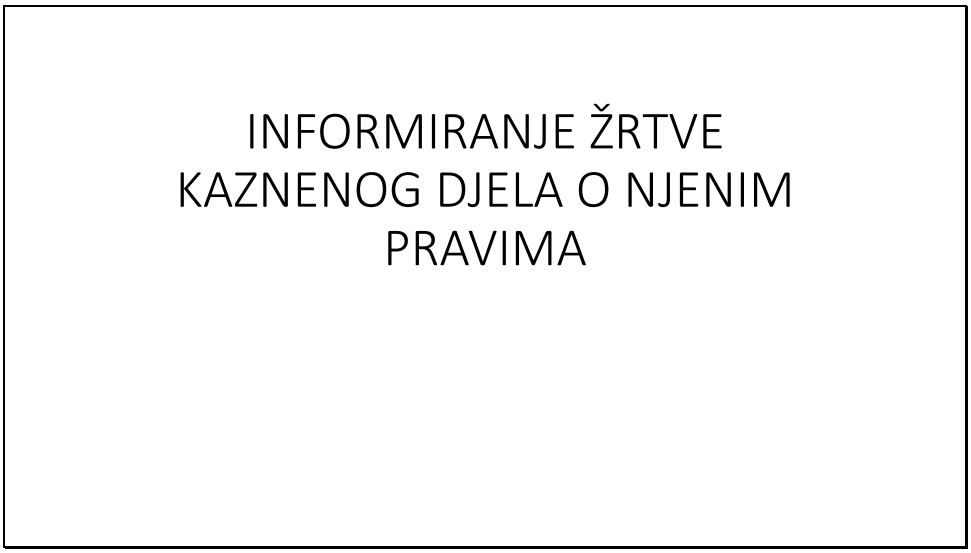
- Udruge OSI mogle bi igrati značajnu ulogu i u edukaciji službenika policije i pravosudnog sustava o tome na koji način pristupiti OSI i u kojoj je mjeri potrebno i poželjno svoje postupanje prilagoditi mogućnostima i potrebama OSI

- Budući da unutar postojećeg sustava podrške ne postoji dovoljna svijest o posebnim potrebama OSI žrtava, potrebno je raditi na podizanju te svijesti. Važnu bi ulogu u tome mogle imati udruge OSI, i to kroz programsko povezivanje s organizacijama civilnog društva okupljenima u Mrežu podrške i suradnje za žrtve i svjedoke kaznenih djela

- Udruge OSI mogle bi se aktivnije uključiti u postupke pojedinačna procjene koji se provode sa svaku žrtvu kaznenog djela i svojim preporukama osigurati žrtvama adekvatnu zaštitu, a njihovi bi predstavnici mogli aktivnije preuzimati ulogu osobe od povjerenja za OSI žrtve u kaznenim i prekršajnim postupcima

### *4.1.2. Power Point prezentacije*

Slide 1




Implementacijom Direktive 2012/29/EU o uspostavi minimalnih standarda za prava, potporu i zaštitu žrtava kaznenih djela te o zamjeni Okvirne odluke Vijeća 2001/220/PUP u hrvatsko zakonodavstvo stvoreni su normativni temelji za ostvarivanje prava žrtava kaznenih djela na informaciju, a samim time i preduvjeti za informirano sudjelovanje žrtve u kaznenom postupku. Zadaća, prvenstveno državnih tijela, ali i drugih institucija i organizacija koje dolaze u kontakt sa žrtvama kaznenih djela i prekršaja, je osim adekvatnog pristupa žrtvama, dati im kvalitetnu i razumljivu informaciju o njihovim pravima te mogućnostima dobivanja pomoći i potpore, kako u pogledu sudjelovanja u kaznenom postupku, tako i u saniranju posljedica nastalih kaznenim djelom. Potaknuti istraživanjima o iskustvima žrtava u pogledu njihovog informiranja, ali i iskustvima o poteškoćama djelatnika državnih tijela, ukazala se potreba za razmjenom mišljenja u stvaranju bolje prakse u ovom području.

Slide 2

## ISTRAŽIVANJE

- ISPITIVANJE KAPACITETA UDRUGA OSI ZA MOGUĆE PREUZIMANJE VEĆE ULOGE U PODRŠCI ŽRTVAMA MEĐU NJIHOVIM KORISNICIMA I ZA SURADNJU S TIJELIMA, INSTITUCIJAMA I ORGANIZACIJAMA KOJE SU DIJELOM KAZNENOG I PREKRŠAJNOG PRAVOSUĐA
- UPITNIK KOJI JE POSLAN NA 12 UDRUGA OSI NA NACIONALNOJ RAZINI: DOBIVENO 8 ODGOVORA

Slide 3

## REZULTATI

- UDRUGE SU DOBRO KAPACITIRANE ZA ZASTUPANJE I PRUŽANJE USLUGA SVOJIM KORISNICIMA, ALI SE DO SADA NISU U VEĆOJ MJERI BAVILE PITANJIMA VEZANIM UZ PRAVA NJIHOVIH KORISNIKA KAO ŽRTAVA KAZNENIH DJELA ILI PREKRŠAJA
- UDRUGE ISKAZALE SPREMNOST ZA PROŠIRENJE SVOJE DJELATNOSTI I NA OVO PODRUČJE, I TO U SLJEDEĆIM DJELATNOSTIMA:
  - 1. **INFORMIRANJU KORISNIKA O NJIHOVIM PRAVIMA I POSTOJEĆOJ PODRŠCI**
  - 2. UPUĆIVANJU KORISNIKA U SUSTAV PODRŠKE, ODNOSNO U DRUGE ORGANIZACIJE SPECIJALIZIRANE ZA PRUŽANJE POMOĆI I PODRŠKE ŽRTVAMA KAZNENIH DJELA I PREKRŠAJA
  - 3. POMOĆ U OSIGURANJU KLJUČNIH PRILAGODBI: POMOĆI U OSIGURANJU MOBILNOSTI I POMOĆI U KOMUNICIRANJU
  - 4. OSOBA OD POVJERENJA (U MANJOJ MJERI)

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## STRUKTURA PREZENTACIJE

- 1. TKO JE ŽRTVA KAZNENOG DJELA
  - A) IZRAVNA I NEIZRAVNA ŽRTVA
  - B) ŽRTVA ILI OŠTEĆENIK?
  - C) POSEBNO RANJIVE KATEGORIJE ŽRTAVA
- 2. INFORMIRANJE ŽRTAVA O PRAVIMA
  - A) TKO I KADA?
  - B) KAKO?

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WU2

## ŽRTVA - DEFINICIJA

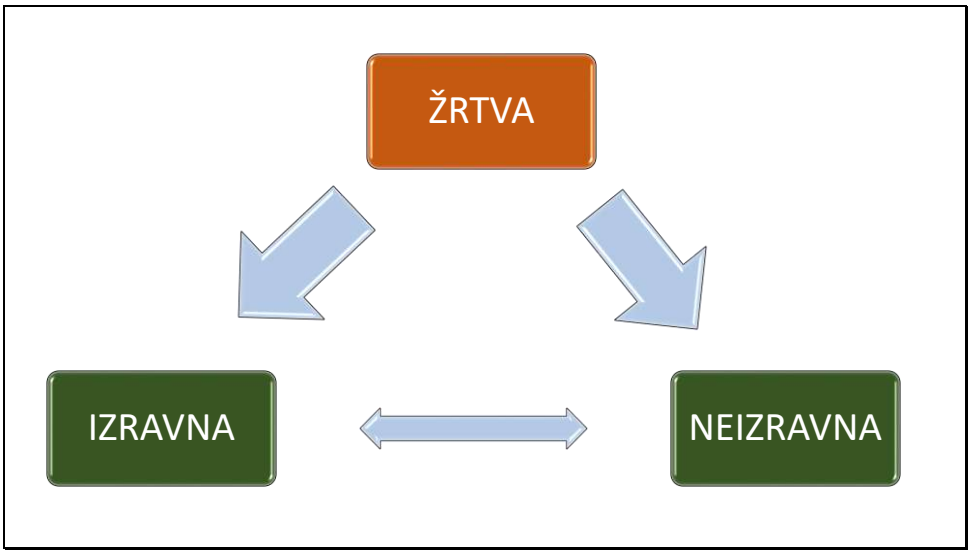
- „ŽRTVA KAZNENOG DJELA je fizička osoba koja je pretrpjela fizičke i duševne posljedice, imovinsku štetu ili bitnu povredu temeljnih prava i sloboda koji su izravna posljedica kaznenog djela. Žrtvom kaznenog djela smatraju se i bračni i izvanbračni drug, životni partner i neformalni životni partner te potomak, a ako njih nema, predak, brat i sestra one osobe čija je smrt izravno prouzročena kaznenim djelom, te osoba koju je ona na temelju zakona bila dužna uzdržavati.“ /članak 202. (11) ZKP-a/
- Žrtva kaznenog djela je fizička osoba kojoj su protupravnom radnjom prouzročene fizičke ili duševne boli, emocionalna patnja, imovinska šteta ili bitna povreda ljudskih prava i temeljnih sloboda” /članak 87. (25) KZ-a/

Za početak nije naodmet prisjetiti se temeljnih pojmova: koga zakon određuje kao žrtvu, koje su karakteristike i posebnosti pojedinih kategorija žrtava. Viktimološki gledano „žrtva kaznenog djela u užem (pravom) smislu jest svaka ona fizièka osoba kojoj je neko dobro ili pravo kaznenim djelom izravno ugroženo, povrijeđeno ili uništeno”.

Za izradu ove prezentacije korišten je tekst Zakona u kaznenom postupku sa zadnjim izmjenama i dopunama iz srpnja 2017. (Narodne novine, br. 152/08, 76/09, 80/11, 121/11 – pročišćeni tekst, 91/12 – Odluka Ustavnog suda RH, 143/12, 56/13, 145/13, 152/14, 70/17).

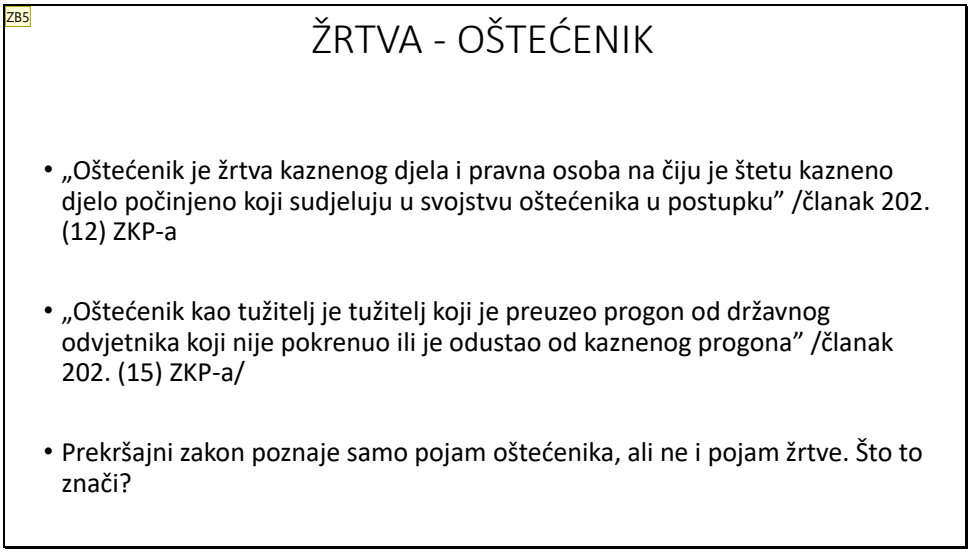
Za izradu ove prezentacije korišten je tekst Kaznenog zakona sa zadnjim izmjenama i dopunama iz listopada 2017. (Narodne novine, br. 125/11, 144/12, 56/15, 61/15, 101/17).

Slide 6




S obzirom da Direktiva postavlja više standarde, njihova primjena u definiranju žrtve nije ujednačena u svim državama EU. Tako primjerice, nekoliko država članica u svojim zakonodavstvima usko definira pojam „žrtva" i na taj način isključuje „neizravne" žrtve poput članova obitelji. Neke države članice uopće nisu definirale taj pojam. Prema našem zakonodavstvu, pravo na podršku i zaštitu daje se članovima obitelji svih žrtava neovisno o tome je li kaznenim djelom prouzročena smrt izravne žrtve. Zaštita za članove obitelji također je razvidna kroz pravo na tajnost podataka čijim bi se otkrivanjem mogla ugroziti žrtvina sigurnost ili sigurnost njoj bliskih osoba (ZZNO).

Slide 7




S obzirom da je novim ZKP-om napravljena distinkcija između žrtve i oštećenika, važno je ponoviti i definiciju oštećenika. Naime, jedno od prava žrtve je da može sudjelovati u kaznenom postupku kao oštećenik, koje pravo je nerijetko nejasno, ne samo žrtvama, nego i policijskim službenicima i pravosudnim dužnosnicima.

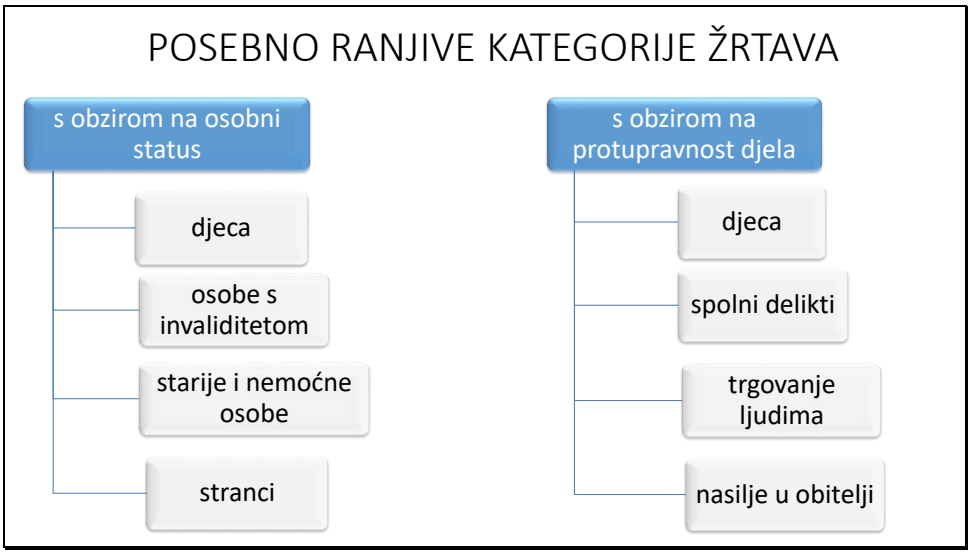
Razlikovanje između tih dvaju pojmova temelji se na kombiniranom materijalno-formalnom kriteriju. Materijalno, žrtva je fizička osoba na čiju je štetu kazneno djelo počinjeno i kojoj su na temelju te činjenice zakonom zagarantirana određena prava. Žrtva ima ta prava neovisno o tome želi li ili ne sudjelovati u kaznenom postupku i u njemu promicati vlastite procesne interese. Ona žrtva koja želi aktivno sudjelovati u kaznenom postupku u cilju promicanja vlastitih procesnih interesa postaje ujedno i oštećenik. Kao oštećeniku pripadaju joj neka dodatna procesna prava – primjerice pravo da u istrazi državnom odvjetniku podnosi prijedloge da se istraga dopuni i druge prijedloge radi ostvarivanja prava propisanih zakonom (čl. 221. ZKP-a), pravo sudjelovanja na sjednici optužnog vijeća (čl. 348. st. 2. ZKP-a), pripremnom ročištu (čl. 372. st. 1. ZKP-a) i na raspravi (čl. 383. st. 1. ZKP-a), pravo aktivnog sudjelovanja u dokaznom postupku na raspravi (primjerice u odnosu na ispitivanje svjedoka na raspravi, čl. 420. st. 1. ZKP-a), (ograničeno) pravo na podnošenje žalbe (čl. 464. st. 4. ZKP-a). Sva ta prava može ostvarivati samo ona žrtva koja je preuzela ulogu oštećenika u kaznenom postupku.

Pored ovog materijalnog razlikovanja, kako bi se provelo jasno formalno razlikovanje između pojmova žrtve i oštećenika, dodatno su razrađene zakonske odredbe o prijavi žrtve za sudjelovanje u ulozi oštećenika u kaznenom postupku. Naime, da bi žrtva mogla sudjelovati u ulozi oštećenika u kaznenom postupku, mora ispuniti dodatnu pozitivnu procesnu pretpostavku – prijaviti se za takvo sudjelovanje.

Uz gore navedeno, valja iznijeti još jednu važnu napomenu – u ulozi oštećenika može se pojaviti ne samo žrtva (koja može biti samo fizička osoba) nego i pravna osoba na čiju je štetu kazneno djelo počinjeno.

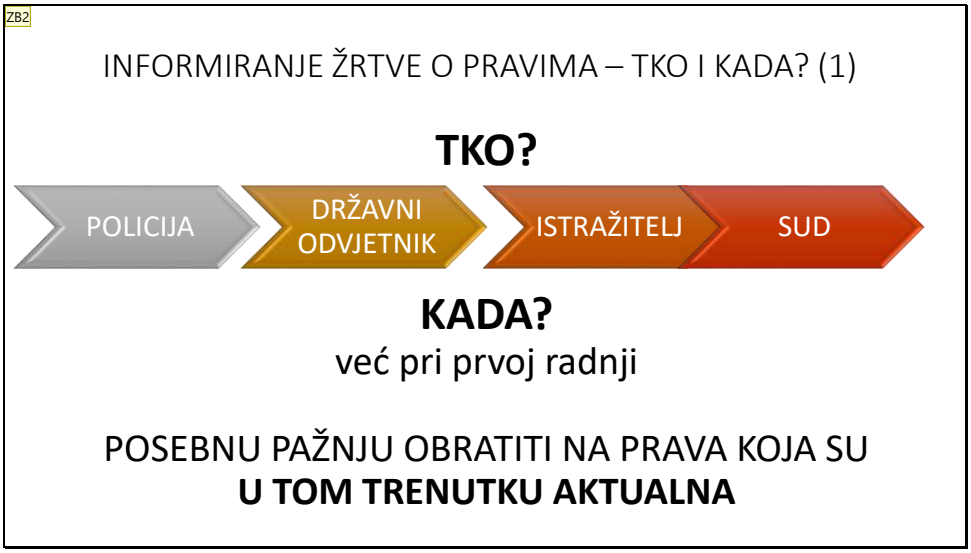
Prekršajni zakon (NN, br. 107/07, 39/13, 157/13, 110/15, 70/17) ne poznaje pojam žrtve, već jedino pojam oštećenika. Isto tako, taj zakon ne regulira posebna prava za žrtve prekršaja. Međutim, to ne znači da žrtvama prekršaja ne pripadaju ista prava koja pripadaju i žrtvama kaznenih djela. Naime, žrtve prekršaja izjednačene su u svojim pravima sa žrtvama kaznenih djela, ako se radi o prekršajnom postupku koji se u smislu judikature Europskog suda za ljudska prava ima smatrati kaznenim postupkom. Kada se radi o takvim prekršajnim postupcima, žrtvama treba biti omogućeno ostvarivanje prava koja su jednaka pravima žrtava kaznenih djela. To proizlazi ne samo iz odgovarajuće primjene ZKP-a u prekršajnim postupcima, već i iz mogućnosti neposredne primjene odredaba Direktive o pravima žrtava u hrvatskom pravnom poretku.

Slide 8




Nadalje, nužno je naglasiti da prema našem zakonodavstvu određene kategorije žrtava imaju poseban status i to ne samo po pitanju zaštite kroz predviđene kaznene odredbe prema počiniteljima kaznenih djela počinjenih na njihovu štetu, nego i drugačiji položaj u kaznenom postupku, što se očituje i po pitanju prava žrtava, o čemu će se kasnije više govoriti.

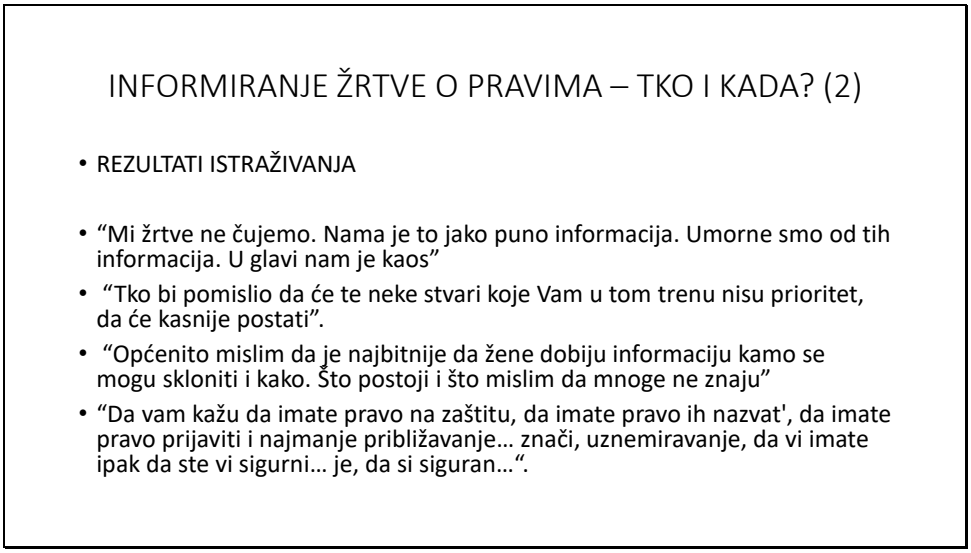
Slide 9




ZKP, u Glavi V. „Žrtva, oštećenik i privatni tužitelj" (članci 43. – 63.), decidirano je određeno tko je, kada i na koji način dužan informirati žrtvu i/ili oštećenika o njihovim pravima. Tako je ZKP-om određeno /članak 43. (4)/ da su policijski službenici, državni odvjetnici, istražitelji i suci, već pri prvom kontaktu sa žrtvom, odnosno, pri poduzimanju prve radnje u kojoj žrtva sudjeluje, dužni obavijestiti žrtvu o njenim pravima (neovisno je li žrtva ranije obaviještena o svojim pravima).

Istraživanje je pokazalo da je, s obzirom na to da Zakon različita tijela uvijek obvezuje na davanje iscrpne informacije o pravima, žrtvama nemoguće sva Zakonom zajamčena prava u jednom trenutku razumjeti. Stoga je važno da tijelo koje obavještava žrtvu o pravima, pored ispunjavanja zakonske obveze da žrtvu informira o svim pravima, posebnu pažnju posveti onim pravima koja su u trenutku davanja informacije najaktualnija. Tako je, primjerice, istraživanje pokazalo da je žrtvama prilikom ostvarivanja prvog kontakta s policijom najvažniji osjećaj sigurnosti, pa bi policijski službenici posebnu pažnju trebali obratiti na informiranje žrtve o pravu na zaštitu od zastrašivanja i odmazde i o mjerama koje policijski službenici mogu poduzeti kako bi žrtva to pravo i ostvarila.

Slide 10

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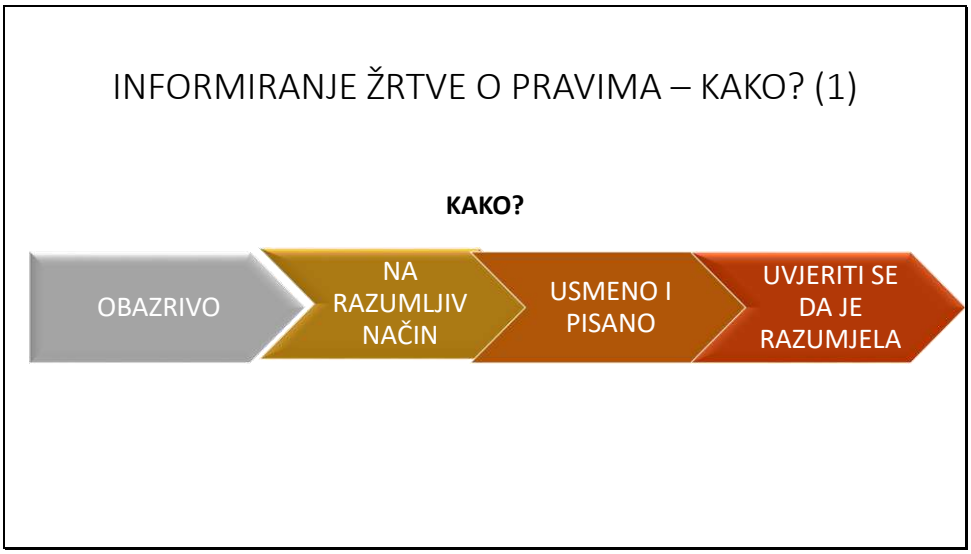


Zakon nalaže da se informiranje žrtve o pravima mora provesti:

-obazrivo: uvažavajući trenutno stanje žrtve (zdravstveno stanje, stupanj traumatizacije, dob ili drugo stanje zbog kojeg nije u stanju pratiti, razumjeti i/ili potvrditi razumijevanje dane informacije)

-na razumljiv način: izbjegavati strogu formalnu zakonsku terminologiju, prava pojasniti razumljivim rječnikom prilagođenim svakoj pojedinoj žrtvi, koristiti prevoditelja (kod stranaca, gluhih i gluhonijemih osoba i sl.)

-usmeno i pisano: obavezno usmeno informiranje, ali i pisano (veći broj žrtava se nalazi u stanju šoka i traume zbog počinjenog kaznenog djela – treba ih uputiti da svoja prava pročitaju na miru i slobodno se obrate osobi koja im ih je priopćila, radi eventualnih dodatnih pojašnjenja)

-uvjeriti se da je razumjela svoja prava: nije dovoljno da žrtva potvrdi da je razumjela, potrebno je na adekvatan način, prilagođen svakoj pojedinoj žrtvi, provjeriti, odnosno, uvjeriti se da je doista razumjela

Treba biti svjestan činjenice da svi postupci kod informiranja žrtve pridonose stvaranju njezinog osjećaja sigurnosti, zaštićenosti i povjerenja (ne samo u osobu, nego i u sustav) te da je konzumacija prava žrtve jedan od pokazatelja stupnja njezine viktimiziranosti, mogućih rizika koji joj prijete od počinitelja ili drugih osoba, što su čimbenici za provedbu pojedinačne procjene njezinih potreba za posebnim mjerama zaštite, koju su dužna provesti sva tijela temeljem Pravilnika o načinu provedbe pojedinačne procjene žrtve (Narodne novine, br. 106/17).

Iako zakon nalaže način informiranja žrtve o njezinim pravima, evidentno je da u provedbi tog postupka dolazi do problema.

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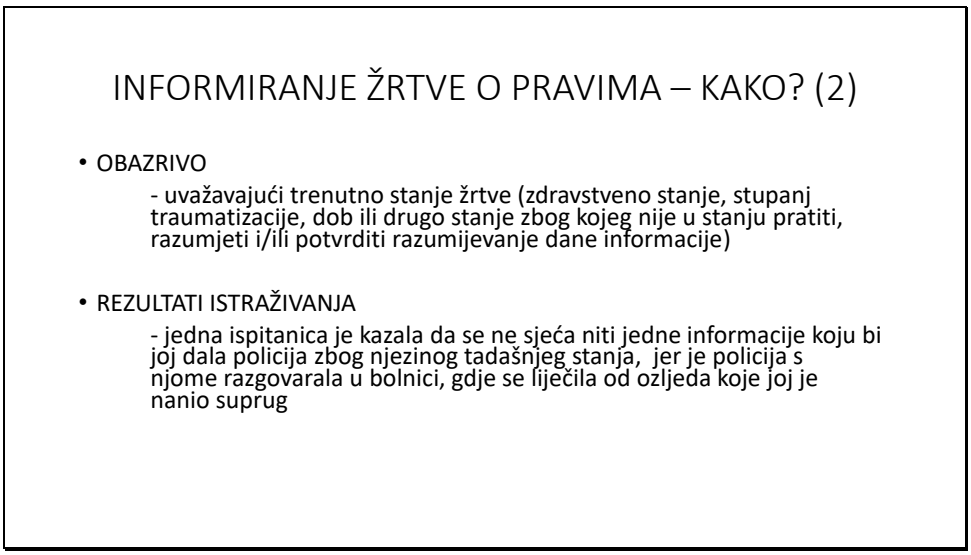

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## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (3)

- NA RAZUMLJIV NAČIN
  - izbjegavati strogu formalnu zakonsku terminologiju, prava pojasniti razumljivim rječnikom prilagođenim svakoj pojedinoj žrtvi, koristiti prevoditelja (kod stranaca, gluhih i gluhonijemih osoba i sl.)
- REZULTATI ISTRAŽIVANJA
  - "Oni su se trudili to objasnit', iako su neke stavke i njima bile nejasne…"
  - „Bili su ljubazni, mislim ono. Htjeli su to sve usmeno obrazložiti, ali na kraju su mi ostavili taj papir"
  - jedna ispitanica je kazala da od državnog odvjetnika nije dobila nikakvu informaciju, kao niti od suca, te da je imala dojam da oni jednostavno žele odraditi svoj posao

U „šumi" informacija o pravima, žrtva će se u trenutku kontakta s predstavnicima državnih tijela, vjerojatno gubiti. Iz iskustva znamo da isto vrijedi i za predstavnike državnih tijela, koji uz mnoštvo obaveza vezanih uz samo postupanje u konkretnom predmetu, često paušalno pristupaju informiranju žrtava, kako smo vidjeli i iz istraživanja, dajući žrtvi pisanu obavijest (upućujući je da si pročita i potpiše da je razumjela) ili pak čitajući joj prava bez objašnjenja ili s neadekvatnim, nedostatnim objašnjenjem. Kako se žrtva ne bi osjećala usamljeno, nesigurno i prestrašeno u toj „šumi" informacija, policijski službenici, državni odvjetnici, istražitelji i suci dužni su poduzeti dodatne napore, kako bi žrtva bila pravovremeno i u potpunosti upoznata sa svim pravima koja joj po zakonu pripadaju te ta prava razumjela i odredila se želi li ih koristiti ili ne.

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ZB3

## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (4)

- NA RAZUMLJIV NAČIN:
- Primjer 1 – Pravo na zaštitu od zastrašivanja i odmazde

„Dužni smo voditi brigu o Vašoj sigurnosti, ako mislite da bi Vas počinitelj kaznenog djela mogao zastrašivati ili Vam se osvetiti. To se može učiniti tako da spriječimo da se sretnete s njim u policiji , na državnom odvjetništvu ili sudu, zabraniti počinitelju da Vam se približi (sud izriče takvu mjeru), a ako Vam se približi trebate odmah zvati policiju, koja će ga spriječiti da Vam se približi tada, ali i ubuduće. Postoji mogućnost da se počinitelja stavi u zatvor (policija može predložiti, a odluku donosi sud). Ako počinitelj ne ostane u zatvoru, može mu se odrediti jamčevina – novčani iznos, koji mora ostaviti sudu, uz uvjet da Vam se ne približi ili Vas uznemirava ili zastrašuje na drugi način, a ako prekrši zabranu, ostaje bez novca i svakako ide u zatvor. Jeste li me razumjeli? Želite li da odmah nešto poduzmem?"

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ZB4

## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (5)

- NA RAZUMLJIV NAČIN:

- Primjer 2: Pravo na pratnju osobe od povjerenja prilikom poduzimanja radnji u kojima sudjeluje
- „Imate pravo da s Vama u policiji, na državnom odvjetništvu i sudu bude netko u koga imate povjerenja i koji će Vam pružiti potporu, da se ne osjećate sami. Ta osoba ne može sudjelovati u postupku, ali vam može pružiti potporu. Jeste li me razumjeli? Ako želite da netko bude uz Vas, tko bi to bio, kako bi ga mogli pozvati, a ja ću o tome obavijestiti daljnje službe s kojima ćete doći u kontakt. Želite li da ju pozovem? Recite mi njegovo ime i prezime, adresu stanovanja."

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## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (6)

- USMENO I PISANO
  - obavezno usmeno informiranje, ali i pisano (veći broj žrtava se nalazi u stanju šoka i traume zbog počinjenog kaznenog djela – treba ih uputiti da svoja prava pročitaju na miru i slobodno se obrate osobi koja im ih je priopćila, radi eventualnih dodatnih pojašnjenja)

- UVJERITI SE DA JE RAZUMJELA
  - nije dovoljno da žrtva potvrdi da je razumjela, potrebno je na adekvatan način, prilagođen svakoj pojedinoj žrtvi, provjeriti, odnosno, uvjeriti se da je doista razumjela

Slide 17

## REZULTATI OVAKVOG PRISTUPA INFORMIRANJU ŽRTAVA O PRAVIMA

- pridonosi stvaranju žrtvinog osjećaja sigurnosti, zaštićenosti i povjerenja (ne samo u osobu, nego i u sustav)
- suradnja žrtve kao ključ uspješnosti kaznenog postupka

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## PSIHOLOŠKI ASPEKTI INFORMIRANJA ŽRTVE O PRAVIMA

?

što se želi postići informiranjem žrtve

kako to postići

što možemo učiniti da se pravo žrtve realno ostvari

Dvije stvari su u ovom postupku važne: osim sadržajnih aspekata informiranja žrtve o njezinim pravima, jako je važan psihološki aspekt. To znači da svaka osoba-pripadnik državnog tijela, koja je zadužena za informiranje žrtve o njenim pravima mora biti dovoljno educirana, kako na razini znanja, tako i na razini vještina. U tom cilju, važno je osvijestiti cilj postupka informiranja, odnosno, što se njime želi postići (je li to sam realiziranje zakonom zadane forme ili je važno da žrtva stekne povjerenje i sigurnost). Naime, i policiji i državnom odvjetništvu i sudu je krajnji cilj uspješnost postupka, odnosno, zaštita žrtve kvalitetnim procesuiranjem i osudom počinitelja. Svijest da je suradljiva žrtva, kao subjekt u postupku, jedan od faktora uspješnosti postupka, je pretpostavka za iznalaženje modaliteta za jasno informiranja žrtve o njenim pravima, odnosno, put

ka realizaciji tih prava. Kako to postići? Primarno, pristupom žrtvi, svakoj individualno (o tome ćemo govoriti u izlaganju koje slijedi). Potom, dobro poznavati zakonska određenja prava žrtava, kako bi informacija o mogućnosti realizacije tih prava bila što kvalitetnija, iscrpnija i svrsishodnija. Pri tome je posebno važna sposobnost stavljanja u poziciju žrtve, kojoj je u tom trenutku važno da je netko pažljivo sluša, da ima strpljenja i da odvoji za nju dovoljno vremena. Ponekad je žrtvi dovoljno da, iako službenik možda ne zna u potpunosti kako ona može ostvariti svoje pravo, zna osobe, institucije ili organizacije civilnog društva, na koje ju može uputiti, radi dobivanja točnije informacije, pomoći ili podrške.

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### *4.2. Materijali za obuku policijskih službenika i djelatnika kaznenog ili prekršajnog pravosuđa*

#### *4.2.1. Uvodno u odnosu na institucije*

- kada se osobe s invaliditetom (dalje u tekstu: OSI) koje su žrtve kaznenih djela ili prekršaja odluče nadležnim institucijama prijaviti kazneno djelo ili prekršaj koji su počinjeni na njihovu štetu ili to učini neka druga osoba ili organizacija, OSI se susreću sa nizom poteškoća koje njihovo sudjelovanje u postupcima kaznenog i prekršajnog pravosuđa čini tegotnijim od istovjetnog sudjelovanje opće populacije. Potrebno je raditi na uklanjanju onih čimbenika koje to iskustvo čine komparativno težim:

    1. raditi na uspostavljanju mehanizama koji omogućavaju identifikaciju žrtava kaznenih djela koje su OSI,

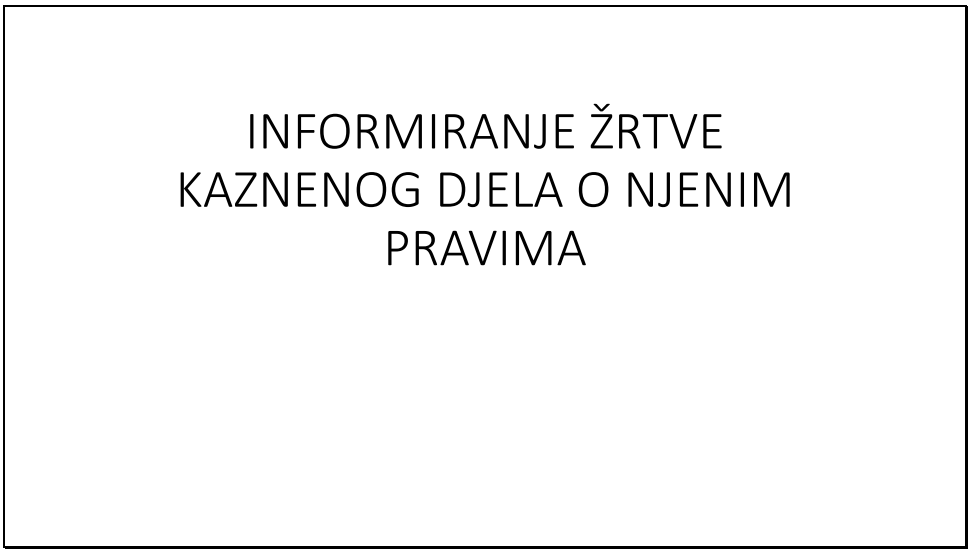
    2. raditi na uklanjanju prepreka koje onemogućuju ili otežavaju fizički pristup OSI policijskim tijelima i tijelima kaznenog ili prekršajnog pravosuđa,

    3. raditi na uklanjanju prepreka koje otežavaju mogućnost odgovarajuće komunikacije između OSI i policijskih službenika i službenika kaznenog ili prekršajnog pravosuđa. Udruge OSI mogle bi pomoći uklanjanju tih prepreka. Njihovo bi znanje, s obzirom na specifičnosti pojedinačnih kategorija oštećenja, moglo biti korisno u informiranju žrtava, osiguravanju razumijevanja danih informacija, osiguranju mobilnosti i drugih potrebnih prilagodbi za OSI, i upućivanju u sustav podrške i pomoći,. Te bi udruge mogle značajno ulogu odigrati i kroz osiguranje osobe od povjerenja za OSI, kao i kroz sudjelovanje, putem preporuka, u postupku pojedinačne procjene potreba žrtava kaznenih djela koje su OSI

    4. među policijskim službenicima i službenicima kaznenog i prekršajnog pravosuđa ne postoji dovoljno razvijena svijest o tome na koji način pristupiti OSI i u kojoj je mjeri potrebno i poželjno svoje postupanje prilagoditi mogućnostima i potrebama OSI. Stoga je potrebno među službenicima nadležnih tijela sustavno provoditi edukacije o posebnostima OSI i prilagođenom postupanju prema njima. Važnu ulogu u provođenju edukacija mogle bi imati udruge OSI, koje bi se trebale aktivno uključiti u informiranje i obuku dionika iz pravosudnog sustava o tome kako komunicirati s osobama s invaliditetom, te o specifičnosti situacije i potrebnim prilagodbama za osobe s različitim vrstama invaliditeta

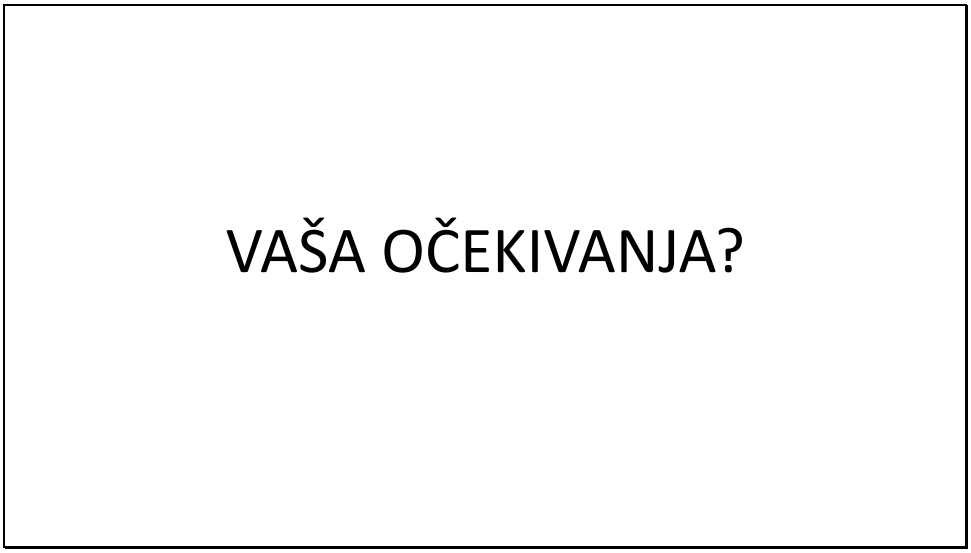
### *4.2.2. Power Point prezentacije*

Slide 1



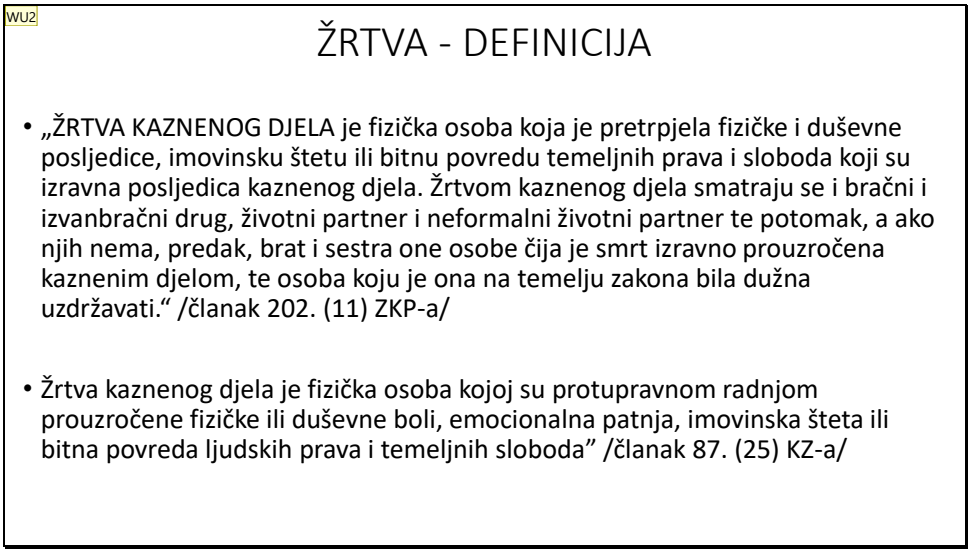

Implementacijom Direktive 2012/29/EU o uspostavi minimalnih standarda za prava, potporu i zaštitu žrtava kaznenih djela te o zamjeni Okvirne odluke Vijeća 2001/220/PUP u hrvatsko zakonodavstvo stvoreni su normativni temelji za ostvarivanje prava žrtava kaznenih djela na informaciju, a samim time i preduvjeti za informirano sudjelovanje žrtve u kaznenom postupku. Zadaća, prvenstveno državnih tijela, ali i drugih institucija i organizacija koje dolaze u kontakt sa žrtvama kaznenih djela i prekršaja, je osim adekvatnog pristupa žrtvama, dati im kvalitetnu i razumljivu informaciju o njihovim pravima te mogućnostima dobivanja pomoći i potpore, kako u pogledu sudjelovanja u kaznenom postupku, tako i u saniranju posljedica nastalih kaznenim djelom. Potaknuti istraživanjima o iskustvima žrtava u pogledu njihovog informiranja, ali i iskustvima o poteškoćama djelatnika državnih tijela, ukazala se potreba za razmjenom mišljenja u stvaranju bolje prakse u ovom području.

Slide 2




Iako smo pripremili prezentaciju, voljeli bismo čuti Vaša očekivanja od ovog predavanja. Što biste htjeli čuti vezano za ovu temu, o čemu biste htjeli raspraviti?

Slide 3

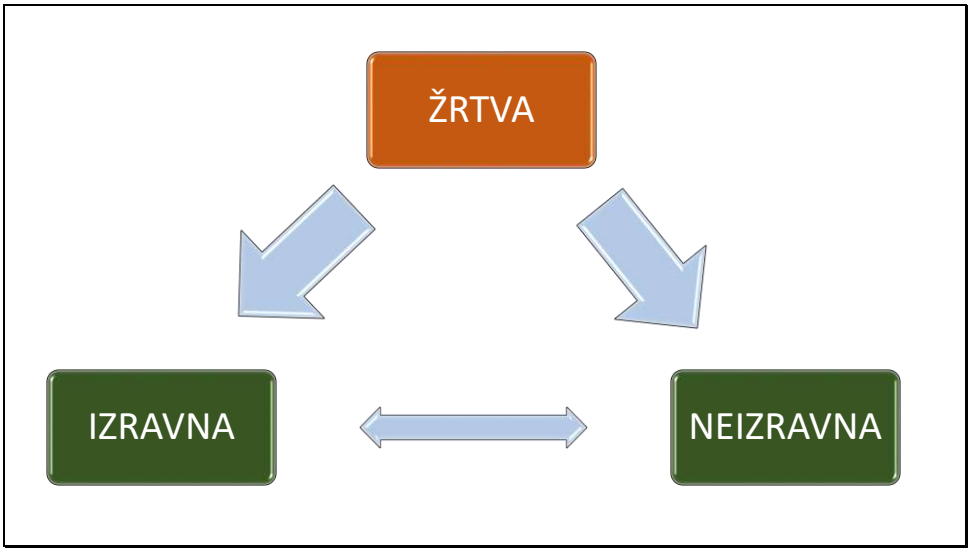



Za početak nije naodmet prisjetiti se temeljnih pojmova: koga zakon određuje kao žrtvu, koje su karakteristike i posebnosti pojedinih kategorija žrtava. Viktimološki gledano „žrtva kaznenog djela u užem (pravom) smislu jest svaka ona fizièka osoba kojoj je neko dobro ili pravo kaznenim djelom izravno ugroženo, povrijeđeno ili uništeno”.

Za izradu ove prezentacije korišten je tekst Zakona u kaznenom postupku sa zadnjim izmjenama i dopunama iz srpnja 2017. (Narodne novine, br. 152/08, 76/09, 80/11, 121/11 – pročišćeni tekst, 91/12 – Odluka Ustavnog suda RH, 143/12, 56/13, 145/13, 152/14, 70/17).

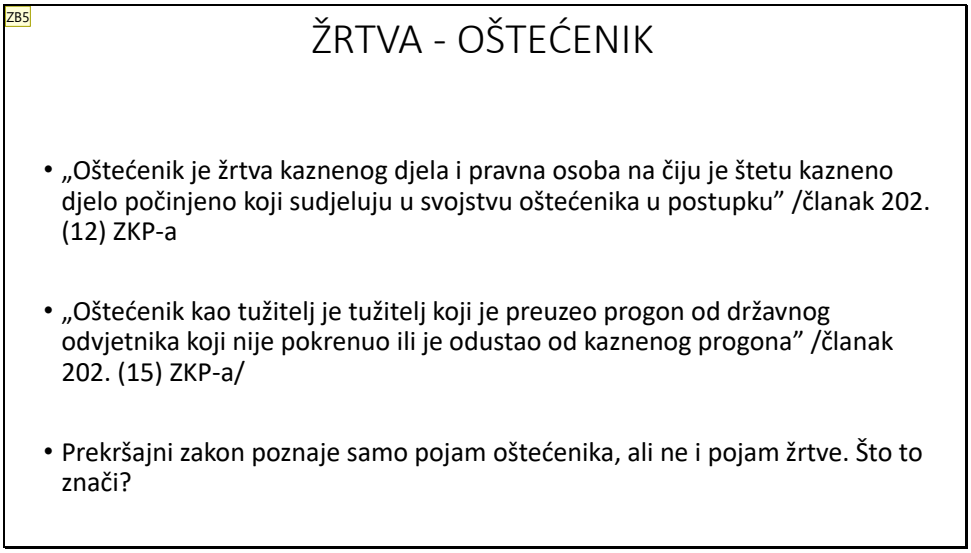
Za izradu ove prezentacije korišten je tekst Kaznenog zakona sa zadnjim izmjenama i dopunama iz listopada 2017. (Narodne novine, br. 125/11, 144/12, 56/15, 61/15, 101/17).

Slide 4




S obzirom da Direktiva postavlja više standarde, njihova primjena u definiranju žrtve nije ujednačena u svim državama EU. Tako primjerice, nekoliko država članica u svojim zakonodavstvima usko definira pojam „žrtva" i na taj način isključuje „neizravne" žrtve poput članova obitelji. Neke države članice uopće nisu definirale taj pojam. Prema našem zakonodavstvu, pravo na podršku i zaštitu daje se članovima obitelji svih žrtava neovisno o tome je li kaznenim djelom prouzročena smrt izravne žrtve. Zaštita za članove obitelji također je razvidna kroz pravo na tajnost podataka čijim bi se otkrivanjem mogla ugroziti žrtvina sigurnost ili sigurnost njoj bliskih osoba (ZZNO).

Slide 5




S obzirom da je novim ZKP-om napravljena distinkcija između žrtve i oštećenika, važno je ponoviti i definiciju oštećenika. Naime, jedno od prava žrtve je da može sudjelovati u kaznenom postupku kao oštećenik, koje pravo je nerijetko nejasno, ne samo žrtvama, nego i policijskim službenicima i pravosudnim dužnosnicima.

Razlikovanje između tih dvaju pojmova temelji se na kombiniranom materijalno-formalnom kriteriju. Materijalno, žrtva je fizička osoba na čiju je štetu kazneno djelo počinjeno i kojoj su na temelju te činjenice zakonom zagarantirana određena prava. Žrtva ima ta prava neovisno o tome želi li ili ne sudjelovati u kaznenom postupku i u njemu promicati vlastite procesne interese. Ona žrtva koja želi aktivno sudjelovati u kaznenom postupku u cilju promicanja vlastitih procesnih interesa postaje ujedno i oštećenik. Kao oštećeniku pripadaju joj neka dodatna procesna prava – primjerice pravo da u istrazi državnom odvjetniku podnosi prijedloge da se istraga dopuni i druge prijedloge radi ostvarivanja prava propisanih zakonom (čl. 221. ZKP-a), pravo sudjelovanja na sjednici optužnog vijeća (čl. 348. st. 2. ZKP-a), pripremnom ročištu (čl. 372. st. 1. ZKP-a) i na raspravi (čl. 383. st. 1. ZKP-a), pravo aktivnog sudjelovanja u dokaznom postupku na raspravi (primjerice u odnosu na ispitivanje svjedoka na raspravi, čl. 420. st. 1. ZKP-a), (ograničeno) pravo na podnošenje žalbe (čl. 464. st. 4. ZKP-a). Sva ta prava može ostvarivati samo ona žrtva koja je preuzela ulogu oštećenika u kaznenom postupku.

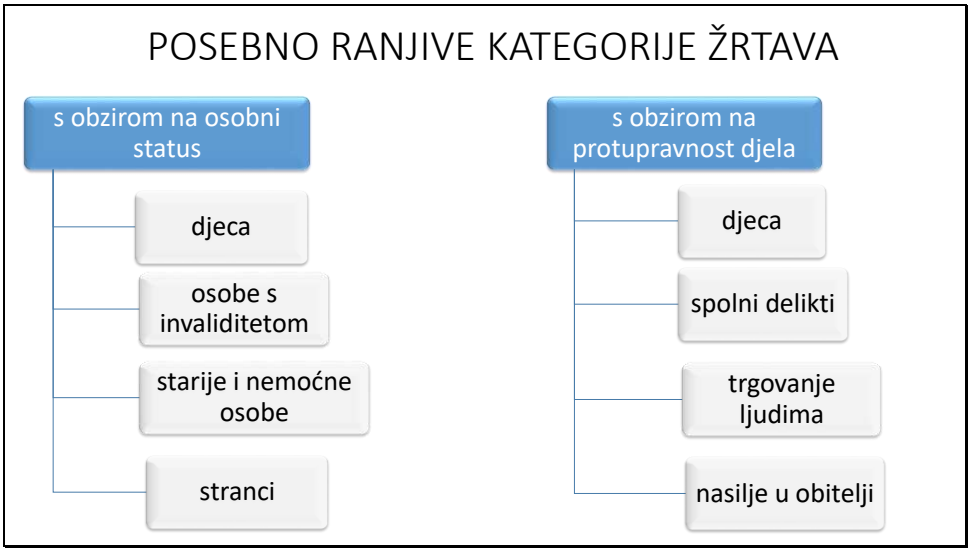
Pored ovog materijalnog razlikovanja, kako bi se provelo jasno formalno razlikovanje između pojmova žrtve i oštećenika, dodatno su razrađene zakonske odredbe o prijavi žrtve za sudjelovanje u ulozi oštećenika u kaznenom postupku. Naime, da bi žrtva mogla sudjelovati u ulozi oštećenika u kaznenom postupku, mora ispuniti dodatnu pozitivnu procesnu pretpostavku – prijaviti se za takvo sudjelovanje.

Uz gore navedeno, valja iznijeti još jednu važnu napomenu – u ulozi oštećenika može se pojaviti ne samo žrtva (koja može biti samo fizička osoba) nego i pravna osoba na čiju je štetu kazneno djelo počinjeno.

Prekršajni zakon (NN, br. 107/07, 39/13, 157/13, 110/15, 70/17) ne poznaje pojam žrtve, već jedino pojam oštećenika. Isto tako, taj zakon ne regulira posebna prava za žrtve prekršaja. Međutim, to

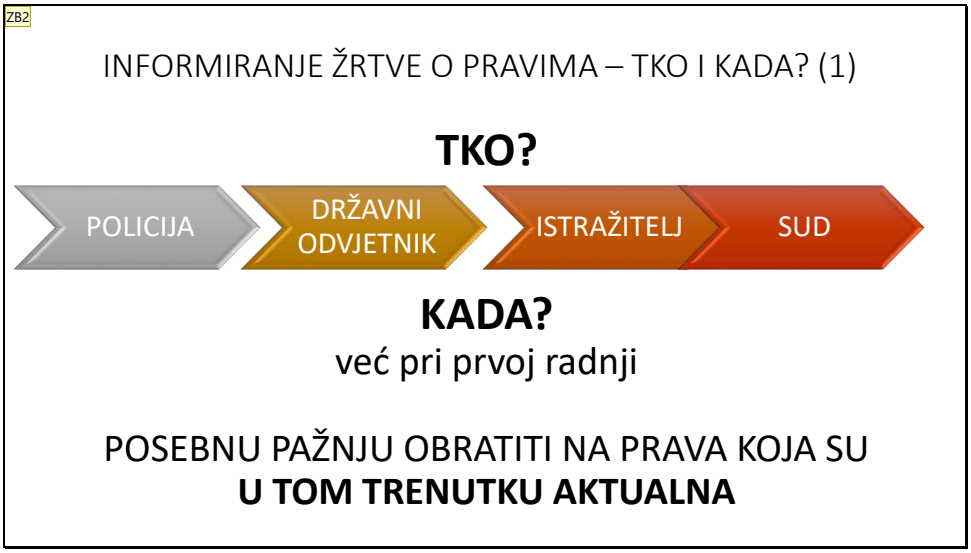
ne znači da žrtvama prekršaja ne pripadaju ista prava koja pripadaju i žrtvama kaznenih djela. Naime, žrtve prekršaja izjednačene su u svojim pravima sa žrtvama kaznenih djela, ako se radi o prekršajnom postupku koji se u smislu judikature Europskog suda za ljudska prava ima smatrati kaznenim postupkom. Kada se radi o takvim prekršajnim postupcima, žrtvama treba biti omogućeno ostvarivanje prava koja su jednaka pravima žrtava kaznenih djela. To proizlazi ne samo iz odgovarajuće primjene ZKP-a u prekršajnim postupcima, već i iz mogućnosti neposredne primjene odredaba Direktive o pravima žrtava u hrvatskom pravnom poretku.

Slide 6




Nadalje, nužno je naglasiti da prema našem zakonodavstvu određene kategorije žrtava imaju poseban status i to ne samo po pitanju zaštite kroz predviđene kaznene odredbe prema počiniteljima kaznenih djela počinjenih na njihovu štetu, nego i drugačiji položaj u kaznenom postupku, što se očituje i po pitanju prava žrtava, o čemu će se kasnije više govoriti.

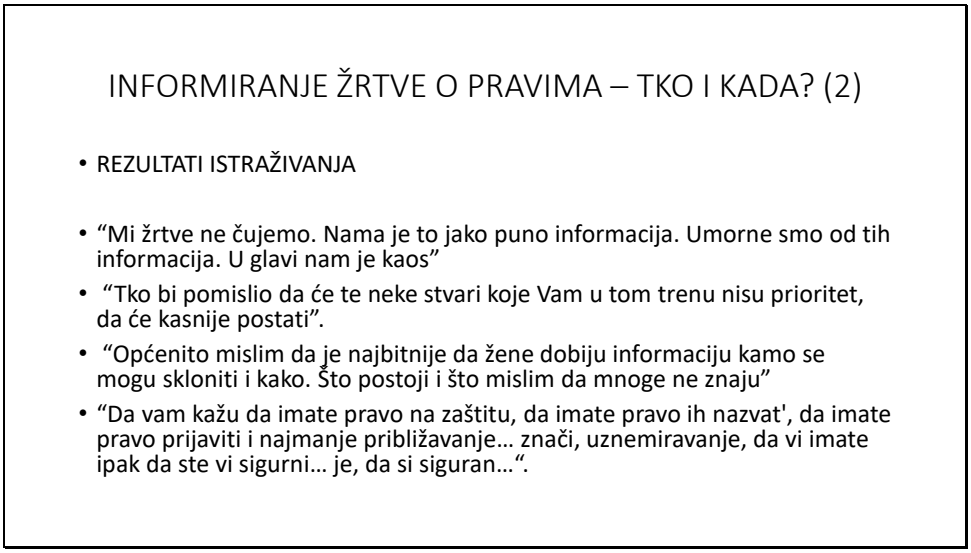
Slide 7




ZKP, u Glavi V. „Žrtva, oštećenik i privatni tužitelj" (članci 43. – 63.), decidirano je određeno tko je, kada i na koji način dužan informirati žrtvu i/ili oštećenika o njihovim pravima. Tako je ZKP-om određeno /članak 43. (4)/ da su policijski službenici, državni odvjetnici, istražitelji i suci, već pri prvom kontaktu sa žrtvom, odnosno, pri poduzimanju prve radnje u kojoj žrtva sudjeluje, dužni obavijestiti žrtvu o njenim pravima (neovisno je li žrtva ranije obaviještena o svojim pravima).

Istraživanje je pokazalo da je, s obzirom na to da Zakon različita tijela uvijek obvezuje na davanje iscrpne informacije o pravima, žrtvama nemoguće sva Zakonom zajamčena prava u jednom trenutku razumjeti. Stoga je važno da tijelo koje obavještava žrtvu o pravima, pored ispunjavanja zakonske obveze da žrtvu informira o svim pravima, posebnu pažnju posveti onim pravima koja su u trenutku davanja informacije najaktualnija. Tako je, primjerice, istraživanje pokazalo da je žrtvama prilikom ostvarivanja prvog kontakta s policijom najvažniji osjećaj sigurnosti, pa bi policijski službenici posebnu pažnju trebali obratiti na informiranje žrtve o pravu na zaštitu od zastrašivanja i odmazde i o mjerama koje policijski službenici mogu poduzeti kako bi žrtva to pravo i ostvarila.

Slide 8

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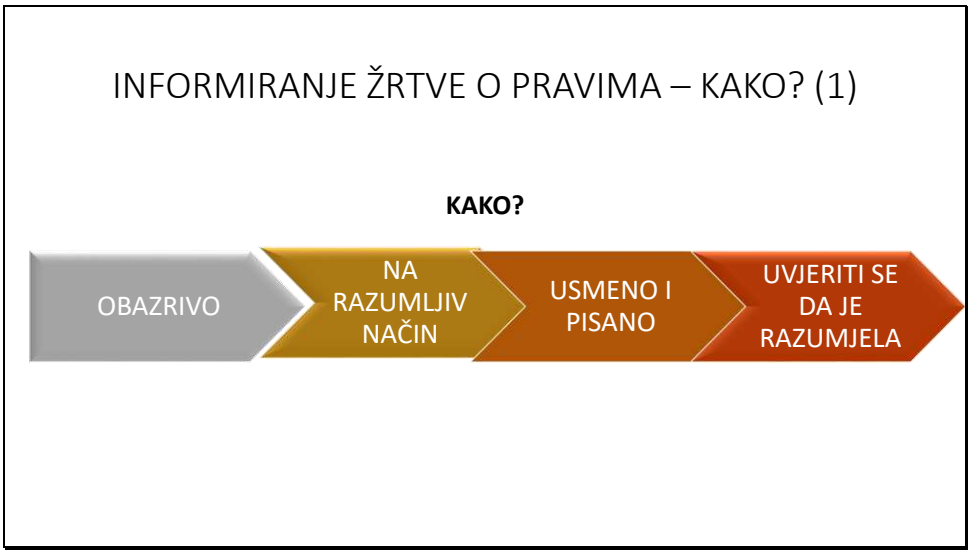



Zakon nalaže da se informiranje žrtve o pravima mora provesti:

-obazrivo: uvažavajući trenutno stanje žrtve (zdravstveno stanje, stupanj traumatizacije, dob ili drugo stanje zbog kojeg nije u stanju pratiti, razumjeti i/ili potvrditi razumijevanje dane informacije)

-na razumljiv način: izbjegavati strogu formalnu zakonsku terminologiju, prava pojasniti razumljivim rječnikom prilagođenim svakoj pojedinoj žrtvi, koristiti prevoditelja (kod stranaca, gluhih i gluhonijemih osoba i sl.)

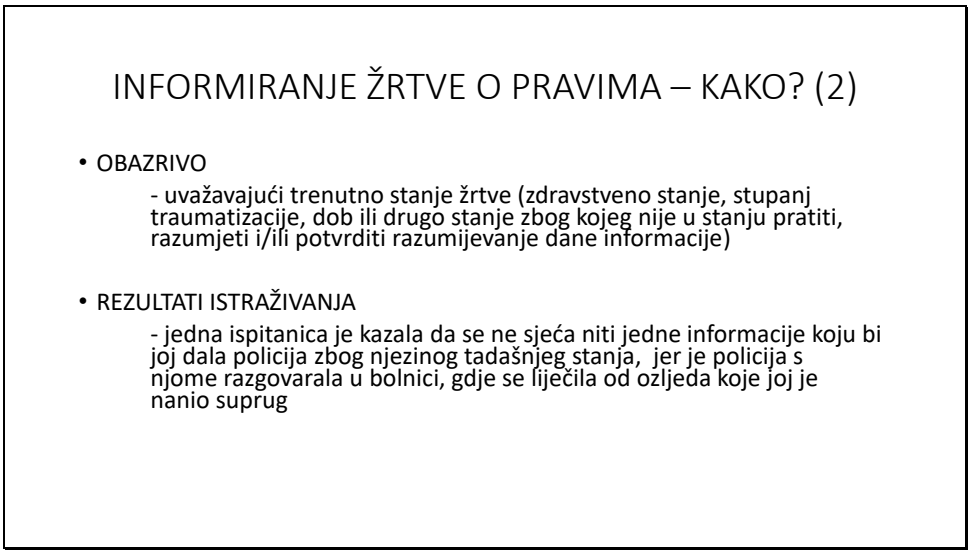
-usmeno i pisano: obavezno usmeno informiranje, ali i pisano (veći broj žrtava se nalazi u stanju šoka i traume zbog počinjenog kaznenog djela – treba ih uputiti da svoja prava pročitaju na miru i slobodno se obrate osobi koja im ih je priopćila, radi eventualnih dodatnih pojašnjenja)

-uvjeriti se da je razumjela svoja prava: nije dovoljno da žrtva potvrdi da je razumjela, potrebno je na adekvatan način, prilagođen svakoj pojedinoj žrtvi, provjeriti, odnosno, uvjeriti se da je doista razumjela

Treba biti svjestan činjenice da svi postupci kod informiranja žrtve pridonose stvaranju njezinog osjećaja sigurnosti, zaštićenosti i povjerenja (ne samo u osobu, nego i u sustav) te da je konzumacija prava žrtve jedan od pokazatelja stupnja njezine viktimiziranosti, mogućih rizika koji joj prijete od počinitelja ili drugih osoba, što su čimbenici za provedbu pojedinačne procjene njezinih potreba za posebnim mjerama zaštite, koju su dužna provesti sva tijela temeljem Pravilnika o načinu provedbe pojedinačne procjene žrtve (Narodne novine, br. 106/17).

Iako zakon nalaže način informiranja žrtve o njezinim pravima, evidentno je da u provedbi tog postupka dolazi do problema.

Slide 10



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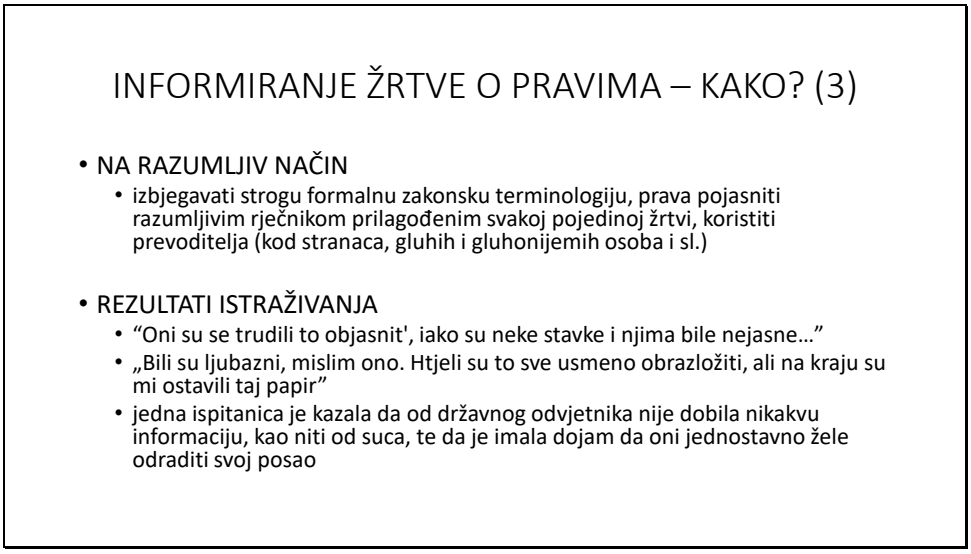


U „šumi" informacija o pravima, žrtva će se u trenutku kontakta s predstavnicima državnih tijela, vjerojatno gubiti. Iz iskustva znamo da isto vrijedi i za predstavnike državnih tijela, koji uz mnoštvo obaveza vezanih uz samo postupanje u konkretnom predmetu, često paušalno pristupaju informiranju žrtava, kako smo vidjeli i iz istraživanja, dajući žrtvi pisanu obavijest (upućujući je da si pročita i potpiše da je razumjela) ili pak čitajući joj prava bez objašnjenja ili s neadekvatnim, nedostatnim objašnjenjem. Kako se žrtva ne bi osjećala usamljeno, nesigurno i prestrašeno u toj „šumi" informacija, policijski službenici, državni odvjetnici, istražitelji i suci dužni su poduzeti dodatne napore, kako bi žrtva bila pravovremeno i u potpunosti upoznata sa svim pravima koja joj po zakonu pripadaju te ta prava razumjela i odredila se želi li ih koristiti ili ne.

Slide 12

ZB3

## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (4)

- NA RAZUMLJIV NAČIN:
- Primjer 1 – Pravo na zaštitu od zastrašivanja i odmazde

„Dužni smo voditi brigu o Vašoj sigurnosti, ako mislite da bi Vas počinitelj kaznenog djela mogao zastrašivati ili Vam se osvetiti. To se može učiniti tako da spriječimo da se sretnete s njim u policiji , na državnom odvjetništvu ili sudu, zabraniti počinitelju da Vam se približi (sud izriče takvu mjeru), a ako Vam se približi trebate odmah zvati policiju, koja će ga spriječiti da Vam se približi tada, ali i ubuduće. Postoji mogućnost da se počinitelja stavi u zatvor (policija može predložiti, a odluku donosi sud). Ako počinitelj ne ostane u zatvoru, može mu se odrediti jamčevina – novčani iznos, koji mora ostaviti sudu, uz uvjet da Vam se ne približi ili Vas uznemirava ili zastrašuje na drugi način, a ako prekrši zabranu, ostaje bez novca i svakako ide u zatvor. Jeste li me razumjeli? Želite li da odmah nešto poduzmem?”

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ZB4

## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (5)

- NA RAZUMLJIV NAČIN:
- Primjer 2: Pravo na pratnju osobe od povjerenja prilikom poduzimanja radnji u kojima sudjeluje
- „Imate pravo da s Vama u policiji, na državnom odvjetništvu i sudu bude netko u koga imate povjerenja i koji će Vam pružiti potporu, da se ne osjećate sami. Ta osoba ne može sudjelovati u postupku, ali vam može pružiti potporu. Jeste li me razumjeli? Ako želite da netko bude uz Vas, tko bi to bio, kako bi ga mogli pozvati, a ja ću o tome obavijestiti daljnje službe s kojima ćete doći u kontakt. Želite li da ju pozovem? Recite mi njegovo ime i prezime, adresu stanovanja.”

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## INFORMIRANJE ŽRTVE O PRAVIMA – KAKO? (6)

- USMENO I PISANO
  - obavezno usmeno informiranje, ali i pisano (veći broj žrtava se nalazi u stanju šoka i traume zbog počinjenog kaznenog djela – treba ih uputiti da svoja prava pročitaju na miru i slobodno se obrate osobi koja im ih je priopćila, radi eventualnih dodatnih pojašnjenja)
- UVJERITI SE DA JE RAZUMJELA
  - nije dovoljno da žrtva potvrdi da je razumjela, potrebno je na adekvatan način, prilagođen svakoj pojedinoj žrtvi, provjeriti, odnosno, uvjeriti se da je doista razumjela

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## REZULTATI OVAKVOG PRISTUPA INFORMIRANJU ŽRTAVA O PRAVIMA

- pridonosi stvaranju žrtvinog osjećaja sigurnosti, zaštićenosti i povjerenja (ne samo u osobu, nego i u sustav)
- suradnja žrtve kao ključ uspješnosti kaznenog postupka

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PSIHOLOŠKI ASPEKTI INFORMIRANJA ŽRTVE O PRAVIMA

?

što se želi postići informiranjem žrtve

kako to postići

što možemo učiniti da se pravo žrtve realno ostvari

Dvije stvari su u ovom postupku važne: osim sadržajnih aspekata informiranja žrtve o njezinim pravima, jako je važan psihološki aspekt. To znači da svaka osoba-pripadnik državnog tijela, koja je zadužena za informiranje žrtve o njenim pravima mora biti dovoljno educirana, kako na razini znanja, tako i na razini vještina. U tom cilju, važno je osvijestiti cilj postupka informiranja, odnosno, što se njime želi postići (je li to sam realiziranje zakonom zadane forme ili je važno da žrtva stekne povjerenje i sigurnost). Naime, i policiji i državnom odvjetništvu i sudu je krajnji cilj uspješnost postupka, odnosno, zaštita žrtve kvalitetnim procesuiranjem i osudom počinitelja. Svijest da je suradljiva žrtva, kao subjekt u postupku, jedan od faktora uspješnosti postupka, je pretpostavka za iznalaženje modaliteta za jasno informiranja žrtve o njenim pravima, odnosno, put ka realizaciji tih prava. Kako to postići? Primarno, pristupom žrtvi, svakoj individualno (o tome ćemo govoriti u izlaganju koje slijedi). Potom, dobro poznavati zakonska određenja prava žrtava, kako bi informacija o mogućnosti realizacije tih prava bila što kvalitetnija, iscrpnija i svrsishodnija. Pri tome je posebno važna sposobnost stavljanja u poziciju žrtve, kojoj je u tom trenutku važno da je netko pažljivo sluša, da ima strpljenja i da odvoji za nju dovoljno vremena. Ponekad je žrtvi dovoljno da, iako službenik možda ne zna u potpunosti kako ona može ostvariti svoje pravo, zna osobe, institucije ili organizacije civilnog društva, na koje ju može uputiti, radi dobivanja točnije informacije, pomoći ili podrške.

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PITANJA
KOMENTARI
PRIJEDLOZI

# *II. PROJECT RESULTS FOR THE REPUBLIC OF CROATIA*

## *1. Research Report with Recommendations*

### *1.1. Project Description*

The ARVID project "Advancing Access to Rights under Victims' Rights Directive for Persons with Disabilities" is financed by the Justice Programme of the European Union and is implemented in Croatia and Slovenia. The project coordinator is the Croatian Law Centre, and the partners are the Ministry of Justice and Administration of the Republic of Croatia, the Ombudsperson for Persons with Disabilities (HR), the Association for Victims and Witnesses Support (HR), the Peace Institute (SI) and the Altra Association (SI). The Ombudsperson for Human Rights of the Republic of Slovenia supports the project.

This project intends to investigate the level of participation of persons with disabilities (hereinafter: PWD) as victims and witnesses in criminal proceedings, as well as possible problems that limit their full participation.

The research results will be used to:

- formulate and advocate for better support services for people with disabilities, including all necessary adjustments; and
- develop knowledge and tools to directly serve people with disabilities who are victims of crime, and professionals and institutions in charge of assisting such people in exercising their rights guaranteed by the Directive 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 (hereinafter: Victims' Rights Directive).

The project envisages the following types of activities:

1. Surveys and interviews with PWDs, and a questionnaire for representatives of NGOs representing PWDs to identify problems faced by these persons in accessing their rights as victims of crime. The preparation of a final report will be based on research and recommendations for improving the support system for victims of criminal acts who are also persons with disabilities,
2. Development of informational materials for people with disabilities on how to exercise their rights as victims of crime,

3. Training modules: (a) official stakeholders of the judicial system in charge of individual aspects of the exercise of the rights of persons with disabilities as victims of crime; (b) representatives of umbrella associations of persons with disabilities and other organizations providing support to persons with disabilities in exercising their rights under the Victims' Rights Directive. Information modules and materials will also be developed and used by ombudsperson organizations in HR and SI in informing official stakeholders about the rights of persons with disabilities in judicial proceedings.
4. Advocacy activities, which will include an international conference and consultations with relevant stakeholders in Croatia and Slovenia to discuss and adopt recommendations for improving the support systems for PWDs who are also victims of crime or misdemeanours; advocating for the implementation of improved policies and practices related to PWD victims' access to rights guaranteed by the Victims' Rights Directive and the production of informational materials, and their dissemination in the countries involved and throughout the EU.

When it comes to people with disabilities who are victims of crime and misdemeanours, there is a lack of comprehensive data at the EU and Member State level, including Croatia and Slovenia. In Croatia, only data on domestic violence are available, where in 2016 a total of 92 PWDs were recorded as victims, which is 0.74% of the total number of victims. Such a low number indicates inadequate record keeping. Due to the lack of official statistics, it is not possible to accurately assess the problems that people with disabilities face in exercising their rights as victims. There are about 80 million people with disabilities throughout Europe. Even if we assume that the number of persons with disabilities as victims of crimes/misdemeanours is proportional to their frequency in the general population (although there is some evidence of higher rates of victimization), the needs of this group deserve a systematic approach. This is considered even more important given the well-documented barriers that people with disabilities face in all aspects of life. The European Disability Forum (EDF) emphasizes the provision of meaningful and accessible communication, support, and information to ensure the effective participation of all persons with disabilities at all stages of court proceedings.

This project proposes a systematic approach to the improved implementation of the Victims' Rights Directive on the affected population. As previously mentioned, the project will be based on empirical research to solve the problem of the lack of relevant data related to the participation of PWD victims in criminal and misdemeanour proceedings in Croatia and Slovenia. The analytical activity of this project will enable us to fill the data gap, which was one of the crucial obstacles to the development and adoption of an appropriate approach to providing support and ensuring access to justice for PWD victims in the full implementation of the Victims' Rights Directive.

### *1.2. Research Goals*

From 1 March 2020 to 1 April 2021, the Croatian Law Centre conducted a survey and structured interviews with persons with disabilities who are victims of crime, held two focus groups, and received eight completed questionnaires from NGOs assisting persons with disabilities. The research aimed to investigate the level of participation of persons with disabilities as victims and witnesses in criminal proceedings and possible problems that limit their full participation. A survey of callers of the National Call Centre for Victims of Crime and Misdemeanours (NPC) was conducted with the aim of examining the representation of persons with disabilities among victims of crime and misdemeanours.

The survey questionnaire was used to sample the respondents for the second part of the research. The second part of the research was designed as a structured interview with persons with disabilities to identify the problems that these persons face in exercising their rights as victims of crime and to make recommendations to eliminate these problems. Since there were fewer interviews than planned, as an additional source of data, two focus groups were held with civil society organizations that provide free legal aid to the general population and with NGOs of persons with disabilities that provide assistance and support to their members.

As planned, the research for the project also conducted interviews with NGOs representing persons with disabilities by sending them a questionnaire by email, which they filled in and submitted.

The questionnaire for NGOs was intended to supplement information on the position of PWDs in the judiciary system and to provide information on possible obstacles that exist for them to exercise their rights as outlined under the Victims' Rights Directive. This was also an opportunity to start researching the possible role of these NGOs in providing support to victims in these instances.

### *1.3. Research Methods, Sample and Subjects*

From 1 March to 31 August 2020, the National Call Centre for Victims of Crime and Misdemeanours (NPC) conducted a survey as part of the ARVID project to examine the representation of persons with disabilities among victims of crime and misdemeanours. The survey questionnaire was used to sample potential respondents for the second phase of the research project. During that period, the NPC received 597 calls. Of the 597 calls, 66% (396) were made to the NPC by the victims themselves, the population directly targeted for inclusion in the ARVID survey. Out of a total of 597 received calls, 131 callers were surveyed, which is 21.29%. Of the total number of victims supported by the NPC during the given period, 33% were interviewed.

Interviewers were allowed not to interview respondents when they assessed that there was a reason why it was not appropriate to interview the caller, and it was necessary to state the reason why the caller was not interviewed when filling in the research form. The most common reason why callers were not surveyed was that they had already participated in earlier surveys. Callers who call more than once and frequent callers always constitute a large part of the total number of NPC calls, including in the specified period. The second most common group is callers who are not victims

of crime and misdemeanours. These are most often either frequent callers who call the NPCs but are not involved in criminal or misdemeanour proceedings; they may be witnesses, perpetrators, and callers who call for certain information or emotional support, but are not themselves victims.

Of the total number of surveyed callers, 70.99% (93) stated that they had no disability or health impairment, while 29.01% (38) stated that they did. The majority of callers who declared that they had a health impairment or disability were persons with physical disabilities, while the minority were those with intellectual and hearing impairments. None of the callers had visual impairments. Callers who did not fall within the offered categories but who stated that they had a disability or health impairment were entered in the category notated as "Other". Such callers responded that they had the following problems: "chronic thyroid problems", "arthritis and chronic heart problems", "a chronic disease" that the caller did not want to name, or "leukaemia".

The greatest number of callers who declared themselves as persons with disabilities or impaired health and as victims of crime/misdemeanours were victims of domestic violence. This is not unusual given that victims of domestic violence are those that most often contact NPCs. The largest number of callers who declared themselves as persons with disabilities or with health impairments and as victims of a criminal offence/misdemeanour (37) reported a criminal offence/misdemeanour to the police or the state attorney's office for which they sought the help of the NPC. Only one caller had not reported a crime/misdemeanour at the time of the call.

As the aim of the second part of the research was to conduct a more comprehensive interview with respondents about their experiences of participating in criminal proceedings as a person with a disability or impairment, information was also collected on callers who were willing to participate as respondents in the second phase of the research project. It was necessary to collect the telephone number of callers who were interested in participating so that they could be contacted and an interview conducted.

For the second part of the research project, only 16% of callers, i.e. 6 people, agreed to participate, while 32 refused. The relatively low number of callers who agreed to participate can be attributed, in part, to the scope and anonymity of the line. The NPC line is a helpline for victims of crimes and misdemeanours, and callers are in extreme emotional states, frightened, distrustful, and often overwhelmed by the situation in which they find themselves. Typically, callers are "immersed" in their own situation and do not want to commit to repeated contact. Additionally, the NPC line offers callers absolute anonymity, which is crucial for many when seeking help, as they are unwilling to disclose their information or get back in touch.

In addition to sampling based on the previous survey, respondents were recruited through the Office of the Ombudsperson for Persons with Disabilities (POSI), the Social Welfare Centres (CSS) in the Republic of Croatia contacted through the Ministry of Labour, Pension System, Family and Social Policy (the competent authority for social welfare), through repeated contact with civil society organizations dealing with the problems of persons with disabilities, and organizations that are members of the Network of Support and Cooperation of Victims and Witnesses of Crime. In the period up to 25 January 2021, a total of 14 structured, in-depth

interviews were conducted. Prior to the interview, eight interviewers underwent two-hour online training on the rights of victims of crime, the research objectives and were instructed in detail on the protocol for conducting the interview. After the first round of interviews, some ambiguities in the protocol were identified, primarily related to understanding the details of criminal proceedings by the interviewers, who were mostly education and rehabilitation workers and experts in conducting interviews with vulnerable groups but not lawyers. This is why the project coordinators organized another short training session with a criminal law expert. Each interview was transcribed, and a detailed report with the interviewer's observations was prepared for each interview.

The response to the interview was lower than initially planned, so two focus groups were conducted to fill gaps and aid understanding of the problems faced by people with disabilities who are victims of crime.

During March 2021, two focus group meetings were held virtually, by participating through a discussion:

- The first focus group, held on 19 March 2021, was attended by five representatives of civil society organizations that provide free legal aid to the general population, including persons with disabilities (PWDs) - representatives of the Croatian Law Centre, the Law Clinic of the Faculty of Law in Zagreb, the Centre for Peace Studies, the Centre for Peace, Nonviolence and Human Rights, Osijek, and the organization SOS - Rijeka - Centre for Nonviolence and Human Rights, who presented experiences and observations from their organizations on topics and difficulties associated with access to justice and the rights of persons with disabilities.
- The second focus group, held on 24 March 2021, was attended by six representatives of civil society organizations that provide legal assistance and other forms of support to victims who are also persons with disabilities - representatives of the Croatian Multiple Sclerosis Society (SDMDH), the Croatian Physical Disabilities Association (HSUTI), the Association of Disabled Workers Zagreb (UIR Zagreb) and the Association of Persons with Disabilities of Croatia (SOIH), who presented their experiences and observations, as these are organizations that provide assistance and support to their members, exclusively persons with disabilities.

During the research period, questionnaires were also sent twice by email to NGOs of PWDs to collect data on the capacities of these associations and of their staff to take on a more significant role in supporting victims by working with other bodies, institutions, and organizations which are part of the criminal and misdemeanour judiciary. The questionnaire was intended to identify critical issues which affect the ability of persons with disabilities to exercise their rights as victims

and to gather suggestions on what should be done to make the judicial system better adapted to persons with disabilities.

Questionnaires were sent to 12 NGOs who represent persons with disabilities at the national level and eight of them submitted completed questionnaires, including: the Croatian Multiple Sclerosis Society (SDMSH), the Croatian Association of the Blind (HSS), Zagreb Association of Disabled Workers (UIR Zagreb), the Croatian Association of the Deaf and the Hearing Impaired (HSGN), the Croatian Association of Deafblind People "Dodir," the Association of Persons with Disabilities of Croatia - SOIH, the Croatian Association of Paraplegics and Tetraplegics (HUPT), and the Croatian Association of Persons with Intellectual Disabilities (the OSIT Association).

### *1.4. Results*

#### *1.4.1. Results of Interviews with People with Disabilities*

The project envisaged that some of the callers from the first phase (the survey of callers to the National Call Centre for Victims of Crime and Misdemeanours) who were identified as persons with disabilities and who participated in court proceedings as victims of crime or misdemeanours, if they agreed, would participate as respondents in the second research phase conducted in the form of interviews. As noted earlier in the report, only six people agreed to participate in the second part of the survey, but only three people ultimately responded to the interview itself.

An attempt was then made to reach an additional number of respondents by contacting those with whom cooperation had already been established, contacts of representatives of various NGOs providing assistance and support to victims, NGOs representing persons with disabilities (national and local), through the Ombudsperson for Persons with Disabilities (POSI), by contacting the SOS hotline for women with disabilities and victims of violence SOIH (Association of Persons with Disabilities), various member organizations of the Network of Victims and Witnesses, and finally inquiries were sent to all social welfare centres in the Republic of Croatia through the Ministry of Labour, Pension System, Family and Social Policy. In this way, contact was established with 11 more PWDs who participated in the research project as respondents, five through POSI, one through the Croatian Association of the Deaf and Hard of Hearing (HSGN), two through the SOS hotline for women with disabilities and victims of violence, SOIH, and three respondents from the Centre for Social Welfare, Virovitica, Family Centre Branch.

When attempting to find people willing to participate in the second research phase, the main problem was the fact that organizations working with this specific group (for example, social welfare centres) do not keep adequate records of beneficiaries - PWDs who were victims of crimes or misdemeanours, but rather obtain information sporadically through the execution of their public powers.

Fourteen (out of the planned 20) structured interviews with PWDs were conducted. Thirteen interviews were conducted by telephone or video link, and one interview was conducted live. This

methodological approach was necessary given that the research was conducted during the Covid-19 pandemic. The results of the conducted interviews are presented below. The presented results are followed by an analysis of the gathered data.

### a. General Information

All interviewees were female (14). Regarding the type of disability, nine respondents stated that they had physical disabilities, one person had multiple disabilities, one person had a physical impairment and psychosocial or mental impairment/disability, one person had a psychosocial or cognitive impairment/disability, one person had a hearing impairment, and one respondent stated she did not consider herself to be a person with a disability. Two respondents were aged 30 to 40, two aged 40 to 50, four aged between 50 and 60, four aged between 60 and 70, one aged between 80 and 90 years old, and there were no data for one respondent. Considering the geographical distribution, five respondents were from the City of Zagreb and Zagreb County. Three respondents were from Virovitica-Podravina County, and one each from the counties of Varaždin, Šibenik-Knin, Osijek-Baranja, Istria, and Primorje-Gorski Kotar. There was no geographical data for one respondent.

Interviewees stated that they were victims of crimes and misdemeanours involving violence. The assessment of the legal qualification of the behaviour to which they were exposed is based on the person's statement in question (whether it is a criminal offence or a misdemeanour), as well as on the description of the events given by the interviewed persons. Based on the obtained data, we can conclude eight cases of a criminal offence and six cases of misdemeanour. The investigation included victims of the following crimes: threats (2), bodily injury, attempted rape and murder, grievous physical harm, domestic and sexual violence, rape, domestic violence, and theft. Concerning misdemeanours, the survey included victims of domestic violence (6).

In three cases, no action was taken, or the police did not take action to further conduct an investigation and press charges after receiving the criminal or misdemeanour report. Of these three cases, in one case there was a report of a criminal offence, and in the other two cases there was a report of domestic violence. In all three cases, the police appear to have concluded that there were no grounds for conducting appropriate proceedings. Five cases are ongoing, and 6 cases have been closed.

### b. At the Police

In eight cases, the victim first contacted the police. In one case, the neighbours called the police, and, in two cases, the family members of the respondent (daughter and son) did so. In two cases, the respondent first contacted the social welfare centre, and in one of these cases, one of the NGOs mentioned above. In one case, the respondent first contacted her lawyer. The presented data show that in the vast majority of cases (11 out of 14), the police were the first body contacted by the

respondents or other persons (neighbours, family members) due to the violent event. Only in three cases was another body (social welfare centre, NGO) or person (lawyer) contacted first.

In seven cases, the first contact between the police and the respondent took place on police premises. In five cases, the first contact was at the respondent's home. In all of these cases, the respondent's home was also the scene of the incident. In two instances, first contact took place in another (public) space.

In six cases, a person close to the respondent (family member, friend, lawyer) was present at the interview between the police and the respondent, irrespective of where the interview took place. In seven instances, the respondent spoke to the police without the presence of any trusted persons. In one case, the police conducted their interview with the respondent together with the person who had committed the violent act against the respondent (in a case of domestic violence, the husband was present during the police intervention in the respondent's home). Based on the interview results, we can conclude that the police officers enabled the respondents, when they so desired, to have present, for support, people close to them (persons of trust), irrespective of the place of the interview (police station, the respondent's home, or another location).

Regarding access to police premises, of the six respondents at the police station, five stated that they had no problems with access to the police premises, while two indicated that they had issues. One stated that she had difficulty accessing the police station due to many stairs and the lack of access or elevators for people with disabilities. The other stated that she had problems with access due to the higher number of stairs and that two police officers had to help her. Of those who did not have issues accessing the police station, one stated that it was because the police station has a wheelchair ramp. From the data obtained, we can conclude that the interviewees did not have significant problems accessing the police premises. The reason is primarily because a significant number of police interviews took place in the respondents' homes or at other locations, but also because when they took place at police stations, the respondents were able to use the stairs by themselves or with other persons (escorts or police officers).

The respondents stated in five cases that they were informed by police officers about the rights of victims of criminal offences and misdemeanours and were provided with written instructions on their rights. In the remaining eight cases, the respondents stated that the police did not inform them of their rights, and, in one instance, the victim said that due to shock, she could not remember whether she was informed. Based on the obtained data, it is possible to conclude that there are several reasons for not informing victims of their rights (8). In three cases, the failure to inform the respondents of their rights can be attributed to the fact that the police officers considered that they were not victims of a criminal offence or misdemeanour. Since the person, in the opinion of the police officers, did not have the status of victim, there was no obligation for the police officers to inform them of their victim's rights. In one case, the respondent was informed of her victim's rights by her lawyer. For the remaining four cases, it is only possible to speculate that problems related to informing the victim about their rights by the police may exist in situations where the

contact between the victim and the officer does not occur on police premises but at the scene of the offence.

With regard to how respondents were informed about their rights, out of five respondents who answered that they were informed about their victim's rights by police officers, four stated that they were provided with written instructions on their rights, without further explanation, and only one stated that her rights were explained to her through conversations with the police. Three of the four respondents said that the instructions on their rights given to them by the police officers were not sufficiently clear because they were not followed up with any further explanations, and one because she was in a state of shock. The only respondent that stated that everything was clear to her was the one who was informed of her rights through an interview with police officers.

During the interview with the police, regardless of whether it took place at a police station, the respondent's home, or elsewhere, six respondents exercised the right to be accompanied by a person of trust. In addition to this right, one respondent also exercised the right to be represented (by a lawyer), and during the interview with the police, she was provided with medical and psychological assistance.

Ten respondents answered that they were able to ask police officers questions during the interview, and nine of them did so. Three respondents did not give a clear answer to this question, and one stated that she does not remember talking to police officers due to shock. Of the nine respondents who asked police officers questions, four indicated that they received satisfactory answers to the questions asked, and the remaining five stated that they did not receive answers.

Four respondents stated that they were asked by police officers if they needed additional protection during police proceedings, if they felt safe, or needed further psychological or other medical assistance. Nine stated that they were not asked these questions by police officers and one that they did not remember (due to shock) details of the conversation with the police. Three stated that they were not offered additional protective measures even though they themselves said that they did not feel safe. Of the four respondents to whom the police officers offered additional protective measures, two refused, one received additional protective measures (police escort and psychiatric and medical assistance), and one did not give a clear answer.

Nine respondents stated that the police officers did not refer them to a victim support department or association. Of these nine, one said that she had known about this right from before, one that she had investigated it on her own initiative, and one that the social welfare centre had referred her. Two respondents stated that they had received a list with victim assistance NGOs, but without further instructions or explanations from police officers. One respondent stated that this right was further indicated in addition to being given a list, and one stated that police officers referred her to victim assistance NGOs. One respondent stated that she did not remember the details of the conversation with the police due to shock.

Two respondents stated that the police offered them the opportunity to testify from their home; eight said they were not offered this opportunity. Two stated that they spoke to police officers in

their home, one stated that they did not remember, one that she does not remember the details of the conversation with the police (because of shock), but that she testified in court.

Three respondents stated that they made it clear that they wished to exercise the right to participate in criminal proceedings as injured parties. Nine of them stated that they did not comment on the matter, and two said that they do not remember. Of the nine who stated that they did not comment on the topic, four stated that the police officers did not even inform them that they had the right to participate as victims in criminal proceedings.

Generally speaking, the respondents were satisfied with the attitude towards them of police officers. Three stated that they were extremely satisfied, five that they were satisfied, one that she had different experiences depending on which police officer was involved. Three respondents said that they were dissatisfied with the attitude of police officers towards them, and two did not give a clear answer to this question. Four stated that they were met by police officers (outside police premises) due to their disability, three said there was no need for it, and one that they were not, while the others did not give a clear answer to this question.

### c. At the State Attorney Office

Of the 14 respondents, only five had experience with the state attorney's office. There are several possible reasons for this: the case is still under police investigation (there is one such case), or the police had concluded that the reported offence was neither a criminal offence nor a misdemeanour (there are three such cases), or that the victim's questioning was not taken as evidence at all before the indictment was filed (there is no information on that), or that the state attorney entrusted the undertaking to the investigator (there is one such case). In the latter case, the respondent in the state attorney's office spoke only with a judicial police officer and the porter, with whom she was informed about the right to inspect the case file.

Four respondents came to the state attorney's office accompanied, and one came alone. Three respondents came accompanied by close persons, and a lawyer and a social worker accompanied one.

Three respondents stated that they had no problems with access to the premises of the state attorney's office, one did not provide an answer, and one stated that she had problems "due to many stairs and the absence of elevators or access for people with disabilities". The state attorney conducted the interview with the respondents, and there was a recorder present in the interview room. In one case, there was a nurse in the room "because my blood sugar varied and they were afraid that I would fall into a coma, so the nurse was with me all the time". One respondent stated that a camera recorded the conversation, one stated that she thought that a camera recorded the conversation because it took place in a room where cameras were located, two stated that a camera did not record the conversation, and one stated that she did not remember the details of the conversation.

Two respondents stated that the state attorney did not ask them if they needed additional protective measures but that they themselves requested them. The state attorney's office then told them that additional protective measures could not be provided. One stated that she was not asked about additional protective measures and one stated that she was provided with medical assistance. One did not elaborate on the details of the interview.

Two respondents stated that they had received information about their rights from the state attorney's office (the state attorney read the victim their rights and provided them on paper along with a list of help and support associations. The state attorney then told the victim that if anything happened to her, she could call them and that they would keep her informed). Two respondents stated that they were not informed about their rights ("they only asked for a statement about what happened and that they would consider this, and that I would be informed about further steps"). One stated that she did not remember the details of the interview.

Three respondents stated that the state attorney had not informed them that they had the right to participate in the proceedings as injured parties, and two stated that they did not remember. Accordingly, one of them stated: "I proposed evidence to the judge, but did not know that I could propose it to the state attorney".

Regarding the exercise of victim's rights in the proceedings before the state attorney, three respondents stated that they did not exercise any rights. One stated that she exercised the right to medical assistance, and another said that she did not remember the details of the conversation.

Concerning the state attorney office's overall attitude towards them, the respondents' experiences vary. One respondent was extremely satisfied with the attitude of the state attorney towards her ("He respected my disability, he also helped me and asked if he needed to call for support. I would give him a grade of 10"). Two were dissatisfied with the attitude of the state attorney towards them (one because she was told to say what happened and whether her statement was the same as the written statement provided because officers did not meet her due to her disability, the other because she thought they did not try to meet her because of her disability). One was satisfied with the kindness but not the support she received from the state attorney (during each attempt to get information, the victim points out that she did not receive the necessary answers and was not informed about the perpetrator's release from prison). One stated that all officials with whom she met during the process were "good people".

One respondent would have liked to have exercised her right to protection and to be informed of when the perpetrator was released from prison. One considers that the state attorney did not provide her with any relevant information. Two did not state that there was something they were not told at the state attorney’s office, which they would have liked to have been told. One said that she did not remember the details of the conversation.

### d. In Court

Of the 14 respondents, only five had experienced court proceedings as victims of a crime or misdemeanour. Here, too, it is possible to offer the same explanations as with the proceedings before a state attorney - the respondents' limited experience with proceedings, or the police concluded at an earlier stage that the reported event was not a criminal offence or misdemeanour or the proceedings had not yet been brought to court. Of the five respondents, one came to court alone, and four came accompanied by close relatives (daughter and husband, father, son) or a professional (lawyer and nurse). Based on the answers received, it is impossible to conclude whether the close and professional persons who accompanied the respondents only accompanied the respondents to court or participated in the court proceedings in the role of persons of trust (or an attorney in the case of a lawyer). Of the five respondents who had relevant experience, two stated that they had no problems with physical access to court, one stated that she had problems (physical support was necessary on each court visit as the victim points out that she had paralysis). Two respondents did not give a clear answer to this question.

All respondents who had relevant experience (5) testified at the hearing in the role of a witness to a criminal offence or misdemeanour. The experience of testifying at the hearing for the respondents was different. From the information gathered, we can conclude that four respondents testified in the usual way at the hearing. In contrast, one respondent testified via an audio-video device (she was not physically present in the courtroom when testifying). One respondent stated that the perpetrator was present in the courtroom during the testimony. One respondent stated that the perpetrator was not present in the courtroom when she testified but that, after her testimony, the perpetrator was summoned to the courtroom. One respondent stated that the interrogation was a difficult experience for her, she was taken aback, and it was difficult for her to describe the events and that the experience was not pleasant for her, but she considered it important that she told the truth.

One respondent (out of five with relevant experience) stated that they were not informed of their rights during the court proceedings. Three stated that they were informed of their rights (one of whom stated that the judge "gave all the information that existed at the time, that I have rights and everything, she was an excellent judge"). One stated that she does not remember. Two noted that the information provided was highly consistent (one stated that the information from the judge, police, and the state attorney matched 95%, while the other stated that there was no difference in the information provided). At the same time, one did not give a clear answer (she identified the rights the judge gave her as very scanty, and the rights given to her by police officers are hard to remember due to the shock she had recently experienced).

Two respondents (out of five with relevant experience) stated that they did not receive information from the court about the right to participate in the proceedings as injured parties; two did not give a clear answer to the question. One stated that the judge mentioned their right to participate in the proceedings as the injured party actively but did not explain in detail what this meant.

Concerning the overall experience of court proceedings, three respondents (out of five with relevant experience) expressed dissatisfaction ("I felt terrible. She did not ask about the event for which the police were called and only asked me if I knew I could be prosecuted for barking like a dog ... She didn't let me talk, I had the feeling that I didn't have a voice, and when I asked her to read the written statement to me she told me that there was nothing to read and that I should know what I had said". The second victim stated that the officers showed empathy at the beginning of the proceedings, which later disappeared. The attitude of court officials towards her also shifted, primarily due to the length of the proceedings. One of the respondents stated that she was extremely satisfied with the judge's attitude towards her ("10, and 10 again. As for that, they were kind to me and everything I asked and asked for was answered or provided and they offered opinions and instructions and everything. So they were great"). One respondent expressed satisfaction but did not elaborate on this.

Three respondents (out of five with relevant experience) stated that they did not consider that the court had not accommodated them due to their disability; one stated that they considered that the court had accommodated her. One did not give a clear answer.

### e. Other Services

Of the 14 respondents, eight stated that neither the police, the state attorney's office, nor the court referred them to support services. Two stated that they had been referred to support services, without specifying from whom, two that the police had referred them to support services (one to the NGO she contacted and the other stated that she had received a paper from the police listing her rights and services and that she called the social welfare service on her own initiative), and the remaining two that they were referred to certain services by the social welfare centre (once to the family centre and the second time to psychological assistance).

Despite the fact that a low percentage of respondents received information from the authorities about the services available to them as victims of crimes or misdemeanours, as many as 10 (out of the 14 interviewed) turned to someone for help and support. Respondents (10) contacted the following services: the department at the respondent's workplace dealing with psychological assistance, the Centre for Peace and Nonviolence (which the respondent found herself online), the victim assistance department at the County Court, the Ministry of Justice (associated with financial compensation), the Autonomous Women's Home, a private psychiatric practice, the B.a.B.e association, the K association (to obtain legal aid), the social welfare centre (three respondents), the T association (mostly humanitarian aid), a dystrophic association, the Croatian Law Centre, the Ombudsperson, the Legal Clinic of the Faculty of Law in Zagreb, a family centre. In these services, the respondents were provided with various forms of assistance: psychological, emotional, humanitarian, legal, accommodation in a safe house, and family counselling. Respondents also express different levels of (dis)satisfaction with the help and support provided to them in different places.

Concerning referrals to specialized support services, out of 14 respondents, only two stated that they were referred to such services by social welfare centres. In one case, it was a referral to support victims of violence, and, in another, for psychological help. None of the respondents addressed the National Call Centre.

Two respondents contacted NGOs for persons with disabilities (a dystrophic association and an association at which one respondent is employed). Three respondents stated that they addressed the Ombudsperson for Persons with Disabilities. One respondent pointed out the significant assistance of the Portal for Persons with Disabilities (IN Portal). One respondent indicated that she had not approached such associations because she had not had any good experience with a local NGO for people with disabilities.

Concerning the roles that associations for persons with disabilities could play, respondents put forward different ideas: legal support, counselling (2), psychological support, informing PWD victims in more detail about their rights during various proceedings (2), especially the existence of a National Call Centre and the Department for Victim and Witness Support, the coordination of multiple bodies, the engagement of a person of trust, temporary accommodation in cases of domestic violence.

Regarding the improvement of institutional information related to persons with disabilities about their rights when they are victims of crimes or misdemeanours, respondents presented different ideas: better networking of institutions and their mutual coordination (so that PWDs do not communicate with each institution separately), free or co-financed legal advice, sign language education, and psychological and legal assistance.

### *1.4.2. Focus Group Results*

Given that only 14 of the 20 planned interviews with PWDs were held, it was decided to replace the missing number of interviews with two focus groups to indirectly collect data from representatives of civil society organizations that provide free legal aid or other assistance and support for PWDs and the general population. Considering that the staff members of these organizations also have information on persons with disabilities, who are also victims of crime or misdemeanours, they can provide insight on this research topic. In a focus group format, we learned about their experiences in assisting people with disabilities who are also victims, and about potential problems and difficulties that these people face in court and in misdemeanour procedures, and perhaps the reasons for their not wanting to report such instances.

Two focus groups were held in March 2021 in an online environment. The first focus group was attended by representatives of NGOs involved in providing free legal aid to the general population. Five representatives from such NGOs participated in this focus group. The second focus group brought together representatives of NGOs of persons with disabilities. Six representatives of such associations participated in the second focus group.

The results of the first focus group can be summarized as follows. NGOs dealing with the provision of free legal aid to the general population have little experience of working with persons with disabilities and do not keep particular records on whether the persons who turn to them for help are PWDs. They know that a person who addresses them is a PWD only if the person himself or herself points it out or if the problem in relation to which the person addresses them is connected to the issues of persons with disabilities (personal disability allowance, disability pension, etc.). Some believe that PWDs, in contact with these NGOs, do not consider their disability as something that should be emphasized. Given the percentage of PWDs among the general population, it can be concluded that PWDs are relatively less likely to turn to these NGOs for help, which may indicate either social exclusion or their referral to NGOs dealing with problems of that population exclusively. An additional factor that may deter PWDs from turning to various NGOs that provide legal or other assistance is the dependence of these persons on the perpetrators of the criminal offences or of the misdemeanours against them.

Regarding how PWDs who are victims of criminal offences or misdemeanours could be encouraged to use their guaranteed rights, emphasis was placed on informing PWDs and educating experts of various profiles who come into contact with PWDs. This education should include knowledge about PWDs and about the rights of victims of crime and misdemeanours. PWDs can be discouraged from exercising their right by how police, judicial, or social welfare experts approach them, lacking understanding of their specific problems. Regarding current ways in which victims of criminal offences, including PWDs, are informed of their rights, it was explained that victims are informed of their rights through written instructions in police stations. The practice of informing victims about NGOs that provide assistance and support to victims, and are available in the area where the victim lives, was highly welcome. As for the lack of such practice, it was pointed out that victims' rights are not explained in an understandable way by police officers. This shortcoming can be remedied through the direct contact of victims with the appropriate associations. It is important to note that the greatest progress in the treatment of victims was observed in the practice of police officers who showed the most extensive cooperation in education on the rights of victims of crime. It was pointed out that the problems faced by victims of crime and misdemeanours are even more common when it comes to PWDs.

The second focus group showed that some NGOs do not have much experience with PWD victims of crime or misdemeanours, which means that PWDs who are victims rarely contact these NGOs regarding issues related to their victimization. Although they are rare, some experiences show that PWDs are often victims of crime and misdemeanours at the hands of people close to them. The probability that crimes against them are committed by those close to them is higher than in the general population. As PWDs are generally financially and otherwise dependent on the assistance of close persons, they rarely decide to report such acts when the perpetrators are close persons. Some experience shows that the close circle of family and friends of PWDs is aware that they are exposed to violence but are not ready to do anything about it due to the fact that PWD victims are

utterly dependent on the perpetrator (a circle of silence is created, which is revealed after the perpetrator's death).

The problem of the negative self-perception of PWDs was also pointed out – since we are PWDs, there is a certain level of embarrassment and violence that we are expected to suffer. Even when they contact NGOs, they rarely decide to report violence to the authorities. The experience of one NGO shows that out of the total number of PWDs who contacted them regarding the fact that they were exposed to domestic violence, only one-third reported the violence to the authorities, namely the police or the social welfare centre. The specificity of domestic violence related to PWDs is that the perpetrators do not include those who are common perpetrators of these crimes and especially perpetrators of misdemeanours in the general population (intimate partners). The circle of perpetrators is significantly wider and includes other close relatives.

PWDs are often exposed to economic crimes by people close to them because they are unjustifiably denied access to the funds they receive based on their disability. Both good and bad practices performed by the police at the scene of the disturbance were discussed, for instance, in the case of reporting domestic violence, police officers of both sexes go to the field. Conversely, an unacceptable practice is that both partners are reported for disturbing the peace, although the basis of such a conflict is violence on a female person by a male person. Further problems in practice were indicated, which are reflected in the disregard of the person's disability as a relevant factor in decision-making by the competent authorities. Thus, in one case, the perpetrator lived on the ground floor of the house, and the victim, who is a PWD confined to a wheelchair, lived in a space on the first floor, which completely prevented her access to the outside world.

Concerning experiences with institutions, it was pointed out that the police showed the most readiness for change. At the same time, the social welfare system and institutions of justice (state attorney offices, courts) proved to be entirely unprepared to improve the existing system. The reports highlighted good practice in informing victims of their rights by the police by providing written instruction on victims' rights. The need was emphasized to educate all officials who come into contact with persons with disabilities regarding the fact that they were victims of criminal offences or misdemeanours.

### *1.4.3. Results of Questionnaires for NGOs*

A survey of NGOs of persons with disabilities at the national level in the Republic of Croatia on the possibility of providing support to victims of crime and misdemeanours was conducted in order to answer two main questions:

1. What are the capacities of NGOs of persons with disabilities which could be used to provide support to users who are victims of criminal offences and misdemeanours; and

2. What is the optimal role of these associations within the national system of assistance and support to victims of crime and misdemeanours.

### a. Capacity of NGOs

When it comes to the general capacity of NGOs, the survey results show that they have a significant ability to represent and provide services to their users, primarily assistance in exercising status rights, healthcare, nursing, and psychosocial support and assistance. The capacities of the NGOs that seem most relevant to their potential significant future role in ensuring access to rights under the Victims' Rights Directive for persons with disabilities are as follows:

(i) The possibility of direct contact with persons with disabilities. The organizations that participated in the survey bring together 95 regional organizations, and 17,224 people with disabilities are direct members. This fact puts them in a unique position where they can serve as a very effective communication channel with this group of people, both in terms of informing people with disabilities and also research. Other organizations or institutions in the justice, assistance, and support systems for victims of crimes do not collect data on the disability of their clients, so they cannot formulate and implement evidence-based public policies and create programmes aimed at making improvements for persons with disabilities to better exercise their rights.

(ii) Good knowledge of the general situation and specific issues faced by individual groups of PWDs, as well as the regulatory, institutional, and implementation framework designed to create equal opportunities. This is evident from the catalogue of activities they deal with, the services and support they provide to members and users of their services, the profiles of the associates they employ, and the catalogue of organizations, institutions, and other bodies they work with. As holders of this knowledge base, the surveyed organizations represent key partners in the formulation and implementation of procedures and programmes intended for PWDs and to provide equal access to the rights of victims of crime and misdemeanours.

(iii) NGOs of persons with disabilities are recognized by public authorities and other public organizations and institutions as legitimate representatives of their beneficiaries. This is evident from the catalogue of organizations and institutions they work with and the fact that they are funded almost entirely by public funding resources. This position makes it easier for them to perform tasks within their usual scope of work but also gives them an excellent negotiating position when considering new issues of interest to persons with disabilities, including their access to justice and victims' rights.

(iv) However, as a limiting factor, it should be mentioned that the organizations surveyed as part of this study have historically, and by their habitus and structure, focused mostly on helping to resolve status issues, such as issues related to healthcare and care in general, and to provide psychosocial assistance and support to people with disabilities. Extending their role to non-traditional areas will require advocacy, significant investment in capacity development, and time needed to adapt.

b. Optimal Role of NGOs in the Support System

In the second phase of the research, based on the collected data, we can conclude the optimal role of PWD associations within the national system of assistance and support to victims of crime and misdemeanours. The responses of the surveyed organizations show that:

(i) Half of the organizations surveyed stated that they had some experience in providing assistance and support to victims of crime. Nevertheless, the vast majority (7 out of 8) expressed a tendency to expand their activities to this area as well.

(ii) All organizations see their role in informing users about their rights and existing support, and almost all (7 out of 8 respondents) refer users to the support system or to other organizations specializing in providing assistance and support to victims of crime and misdemeanours. In line with the needs of the population they represent, they are also ready to assist in ensuring essential adjustments: assistance in ensuring mobility and aid in communication. A small number of organizations (3 out of 8) expressed a willingness to provide support to users by providing a trusted person to accompany them to the police, the state attorney's office, and the court.

(iii) When it comes to the referral of beneficiaries, organizations reported they mostly refer to official organizations and institutions related to status determination and to medical and psychosocial support. When asked about the characteristics that such organizations should have, they listed several key factors: knowledge of the specific needs of people with individual types of disabilities; the training of staff to communicate and work with them; the ability to ensure physical accessibility and other basic adjustments; and an approach based on adaptability and understanding of the rights and needs of persons with disabilities.

(iv) When asked about the capacity they lack to successfully provide assistance and support to victims of crime and misdemeanours, organizations most often cite a lack of knowledge in this area, from the legal aspects of criminal and misdemeanour proceedings to the specific support needs of victims of crime. Consequently, they see the employment of professional associates, mostly in the legal profession, as a possible solution to this shortcoming, and they also emphasize the need for their own education. This also includes ensuring the physical and logistical conditions for the provision of these new services and the stable financing of this activity.

### *1.5. Recommendations*

Based on the research conducted, we make the following recommendations to improve access to rights under the Victims' Rights Directive for PWDs:

1. In the case of criminal offences and misdemeanours committed against PWDs, victims rarely choose to report these offences to competent authorities or institutions. What stands out as a

fundamental obstacle in initiating appropriate proceedings before the competent authorities are PWD victims' dependence on persons who commit criminal offences and misdemeanours against them. ***Therefore, it is necessary to work systematically and, in the long run, build a publicly funded support system for PWDs that will enable this category of persons to become existentially emancipated from the persons to whose violence they have been subjected***. The construction of such a support system implies that PWDs who are victims of criminal offences and misdemeanours at the hands of persons close to them with whom they share a common household, if necessary, are provided with accommodations adapted to their needs. The leading role in building such a system should be played by NGOs involved in promoting and protecting the rights of PWDs (for more on the role of these NGOs in the support system, see the recommendations under items 6 and 7).

2. When PWDs who are victims of a crime decide to report the crime or misdemeanour committed against them to the competent institutions, or when this is done for them by another person or organization, PWDs face several challenges that make their participation in criminal and misdemeanour justice proceedings more difficult than would be the case for members of the general population. Problems exist in the area of physical access to such places. Therefore, it is necessary ***to work on eliminating obstacles that prevent or hinder the physical access of PWDs to police stations and criminal or misdemeanour justice bodies***.

3. Further problems exist in the ability to properly communicate with officials of the competent authorities. Therefore, it is necessary ***to remove obstacles that hinder the possibility of effective communication between PWDs and police officers and criminal or misdemeanour justice officials.*** Adherence to the recommendations under 2 and 3 may lead to the appointment of a ***coordinator for persons with disabilities*** at these competent institutions. These persons would serve as the central contact person to which other officials of that body could turn when they have specific questions or doubts about providing access to PWDs. PWD associations could also be of great help in the work of such coordinators and refer them to the support and assistance system. For this purpose, it would be advisable to establish cooperation with the Ministry of the Interior / Police Directorate to develop the necessary protocols.

4. It was noted that there is a lack of awareness of the rights of victims of crime and misdemeanours in the PWD population. Therefore, it is necessary ***to work on raising the awareness of PWDs about their rights as victims of criminal offences or misdemeanours***. A significant role in the implementation of this recommendation can be played by PWD associations, which, in cooperation with other stakeholders, could conduct a broad campaign to inform users about their rights as victims of crime and misdemeanours. From the research results within the ARVID project, we can conclude that PWDs generally do not have enough information to enable them to

decide in these cases and exercise the rights that are guaranteed for them. PWD organizations should also find ways to engage in dialogue with their beneficiaries on these issues, as it has been shown that they generally cannot identify victims of crime among their beneficiaries and consequently lack systematic insight into their experiences and problems,

5. The research shows that among police officers and criminal and misdemeanour justice officials, there is no sufficiently developed awareness of how to approach PWDs and to what extent it is necessary and desirable to adapt to the needs of PWDs. Therefore, it is important ***to systematically conduct training among the officers of the competent bodies on the specific needs of PWDs and on treatment adjusted to them.*** A key role in conducting training could be played by PWD associations, which should be actively involved in informing and training stakeholders from the judicial system on how to communicate with people with disabilities and on the specifics of the situation and any necessary adjustments for those with individual categories of disabilities. This information and training would play an important role in eliminating resistance to the inclusion of people with disabilities, which is largely due to the lack of the aforementioned knowledge and experience. It should be essential to enable persons with disabilities who are victims of criminal offences and misdemeanours to participate in various proceedings in person. They should be encouraged to do so, and all preconditions for the direct exercise of the rights guaranteed by the Victims' Rights Directive should be ensured and systematically emphasized.

6. The research shows that among the NGOs that are part of the support system for victims of crime and misdemeanours and among NGOs of PWDs, not enough attention is paid to the needs of victims of criminal offences or misdemeanours who are PWDs. For example, shelters for victims of domestic violence, which already lack sufficient capacity, are generally not even equipped to accommodate people with disabilities. Therefore, it is necessary ***to develop awareness within the support system of the special needs of PWDs who are victims of crime.*** In the long run, this can be done by involving PWD associations more actively in the support system for victims of crime and misdemeanours. These NGOs should gradually develop their ability to provide assistance and support to victims of crime and misdemeanours. Initially, due to the currently small number of cases, it may be useful to identify one person - coordinator (and/or a smaller ad hoc multidisciplinary team) who will be better acquainted with this issue and serve as a reference person for this area within the organization. The decision on whether to further develop their capacity or address these issues by expanding cooperation with organizations specializing in providing assistance and support to victims can be made by each organization when there is a clearer picture of its users' needs. It would certainly be advisable for ***PWD associations to programmatically connect with civil society organizations gathered in the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences*** as a transitional solution. In the current absence of capacity to provide assistance and support to victims of crime and misdemeanours among its beneficiaries, it would be useful to refer them for this purpose to

organizations that already have experience and expertise in this area. Cooperation between these two types of organizations could lead to the better informing of victims, as they could jointly provide them with all relevant information in a way adapted to the possible special needs of users, and the better referral of victims, as they would direct them to tailored service providers. Through this cooperation, PWD organizations could develop their own competences in providing assistance and support to victims of crime and misdemeanours but also teach cooperating organizations about the specifics of working with people with disabilities. An additional benefit for people with disabilities would be achieved if a system was in place to inform them of the necessary information and provide assistance and legal advice, and possible secondary legal assistance so they could make informed decisions about further steps. Given the limited resources allocated within the justice system for the purpose of maintaining a support system for victims of crime, it would be advisable to include the ministry in charge of social welfare in upgrading this system in relation to the needs of PWD victims.

7. It has already been pointed out that the criminal and misdemeanour judiciary procedures are not sufficiently adapted to PWD needs and that work needs to be done to train both competent officials and PWDs. ***PWD associations*** can play an important role in overcoming the barriers that exist between PWDs and institutions on the one hand, and police officers and officials of the criminal and misdemeanour justice system on the other hand. From the initial contact of PWDs with these bodies, ***the latter can be involved in procedures of assessment of PWD victims of crimes and misdemeanours*** because they will be familiar with the needs of people with disabilities, have their trust, will be able to provide assistance and support to both parties and offer better risk management for the victim. Representatives of these NGOs could take on the role of a trusted person to monitor PWDs in their interactions with the police and the judiciary. This role is important for victim support but can also help ensure the victim's active participation in the proceedings, which is the primary intention of the Directive. Some of the information we have collected indicates that judicial bodies often avoid involving people with disabilities but instead consult representatives of social services or other persons representing PWDs, with the declared intention of sparing them from going to court or to a state attorney's office. This is contrary to the goals of the Directive and also to the Convention on the Rights of Persons with Disabilities, which require PWD involvement.

## *2. Summary of Round Table/Advocacy Meeting Discussions with Stakeholders about the Project Recommendations*

### 2.1. Summary of Discussion

At roundtables and meetings the results of empirical research on a sample of persons with disabilities (hereinafter: PwD) who are also victims of crime and / or misdemeanours were

presented, as well as recommendations for improving policies and practices that support access to rights guaranteed by the Victims' Rights Directive for PWD. Presentations were followed by the discussions on recommendations and other issues identified as relevant by the participants.

In all of the meetings, a general principle of non-discrimination was emphasized, i.e. the stance that reasonable accommodations need to be made in order to ensure equal access to rights (and access to justice) to all categories of victims, including PwD, regardless of the type of disability. Participants of several meetings shared their general impression that there exists a sectoral divide, whereby the overall rights of PwD are primarily dealt with within the associations of PwD while the victim support falls within the purview of the law enforcement and justice sectors, including the work of the court-affiliated departments and victim support CSOs. This divide may hinder the full exercise of rights of PwD who are victims of crime/misdemeanours. Another general conclusion arising from empirical research conducted within the project was also confirmed at stakeholder meetings: the fact that PwD victims are in many cases economically and in other ways dependent on the perpetrators (who usually are their family members); this makes them potentially vulnerable if they are victimised.

In relation to the recommendation concerning **the systematic and long-term development of a publicly funded support services for PwD**, the participants pointed out the importance of a multidisciplinary approach, of personal competences of persons involved in the existing victim support system, as well as of the importance of sharing of knowledge and experiences through joint participation in training of staff of PwD associations and organizations providing assistance and support to PwD victims. The importance of cooperation of state institutions with the civil sector was emphasized, as was the importance of ensuring territorial/regional coverage for services provided by CSOs and the potential usefulness of local networks of CSOs dealing with PwD and with victims' rights.

Participants of all meetings agreed fully with the necessity (expressed in a project recommendation) of **eliminating obstacles that prevent or hinder the physical access of PwD to police stations and criminal or misdemeanour justice bodies**. Further, the lack of accessibility frequently characterises other relevant, primarily victim support organisations, including social welfare centres, CSOs and shelters.

In relation to the recommendation, which refers to **removal of obstacles that hinder the possibility of effective communication between PWDs and police officers and criminal or misdemeanour justice officials, and the appointment of a coordinator for persons with disabilities**, it was concluded that it is very important to take into account disability as a personal characteristic of the victim when conducting an individual assessment of the victim. In that context, it is important to educate all persons involved in conducting individual assessment of the victim - police officers, state attorneys, judges, etc., and to involve PwD associations in the provision of training because of their specific knowledge that can help detect a certain type of disability and advise on appropriate protection measures and appropriate procedures. The idea of appointing a coordinator for victims who are PwD within the institutions involved in

criminal/misdemeanour proceedings, i.e. a person who would receive specific training and would be charged with communication with CSOs which provide support to victims and PWD associations was supported by some meeting participants. In general, it was pointed out that sensitization is very important, which is facilitated in the county courts where there are departments that provide assistance and support to victims, while in places where there are no such departments, it is important to ensure cooperation with PwD associations.

Regarding **raising awareness of PwD about their rights as victims of criminal offenses or misdemeanours**, it was concluded that all available communication and media channels for disseminating information were welcome – from radio shows that proved very useful, videos that could be shared via social networks/media or other channels, to posters and leaflets. CSOs working with PwD can serve as an intermediary in the dissemination and information process.

In relation to the recommended **training for the officers of the competent bodies on the specific needs of PWDs and on treatment adjusted to them**, the participants agreed on the importance of an interdisciplinary and multisectoral approach when it comes to education, training of all persons involved in the existing support system, i.e. that judges, attorneys at law, state attorneys, police officers and representatives of victim support organizations and PwD associations are present together at the training. The importance of such inter-institutional training with involvement of PwD associations was also emphasized in the context of education on how to conduct individual assessment of the victim (who is also a PwD).

Furthermore, the strengthening of the capacity of employees of social welfare centres was emphasized, given that these employees are also among the first contacts of PwD victims.

Regarding **the development of awareness within the support system of the special needs of PWDs who are victims of crime**, as well as the systematic cooperation of PwD associations with civil society organizations gathered in the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences, participants agreed with this recommendation and confirmed its importance. It was emphasize that one of the crucial preconditions for achieving improvements in this area would be targeted state/public financing.

In relation to the recommendation that PwD associations should - from the initial contact of PwD with criminal or misdemeanour justice bodies - be involved in procedures of assessment of PwD victims of crimes and misdemeanours, and the representatives of these associations could take on the role of a person of trust, participants supported such an approach.

Representatives of all types of institutions, i.e. all groups of stakeholders strongly supported the project's aims, objectives, and recommendations. They expressed a willingness to engage in joint activities, especially training activities (either as training providers or as training participants, depending on their mandates) and mutual collaboration towards the important goal of securing access to rights guaranteed by the Victim's Directive for PwD.

**2.2. List of advocacy events (in chronological order):**

*1) Round table with stakeholders – representatives of public sector bodies and institutions – participants from Zagreb, 13.05.2021.*

*2) Round table with stakeholders – representatives of public sector bodies and institutions – participants from other regions of Croatia, 13.05.2021.*

*3) Round table with stakeholders – representatives of civil society organisations (CSOs) representing persons with disability (PwD) and CSOs active in the area of victims' rights - participants from Zagreb, 14.05.2021.*

*4) Round table with stakeholders – representatives of civil society organisations (CSOs) representing persons with disability (PwD) and CSOs active in the area of victims' rights - participants from other regions of Croatia, 14.05.2021.*

*5) Advocacy meeting with representatives of the Ministry of Labour, Pension System, Family, and Social Policy, 02. 09. 2021.*

*6) Advocacy meeting with representatives of the Ministry of Justice and Public Administration and the Judicial Academy, 06. 09. 2021.*

*7) Advocacy meeting with representatives of Departments for Victim and Witness Support at county courts, 07. 09. 2021.*

*8) Advocacy meeting with representatives of PwD associations and the Support and Collaboration Network for Victims and Witnesses of Crime, 10. 09. 2021.*

*9) Advocacy meeting with representatives of the Police Academy of the Ministry of the Interior,*

*14. 09. 2021.*

*10) Advocacy meeting with representatives of the Academy of the Bar Association, 16. 09. 2021*

**2.3. Combined list of participants (in alphabetic order):**

*Ivana ANDRIJAŠEVIĆ, Association for Victim and Witness Support*
*Ljiljana BAČIĆ JOZIĆ, Social welfare centre Zagreb*
*Josipa BARIČEVIĆ, Municipal State Attorney's Office in Rijeka*
*Iva BARIĆ MILOJKOVIĆ, County Court in Osijek*
*Marija BARILIĆ, Director of the Family and Social Policy Directorate, Ministry of Labour, Pension System, Family, and Social Policy*
*Marija BOROVEC, Ministry of Labour, Pension System, Family, and Social Policy*
*Anita CRNKOVIĆ PENIĆ, Victim and Witness Support Service, Ministry of Justice and Public Administration*
*Iva ČATIPOVIĆ, SOS Rijeka – Center for Non-violence and Human Rights*
*Tamara ČATLAK CINDRO, County Court in Split*

*Sanja DELAČ FABRIS, Police Administration Istarska*
*Anamaria DROŽĐAN-KRANJČEC, Women's Room, the Support and Collaboration Network for Victims and Witnesses of Crime*
*Ana ERGOVIĆ KUZMANOVIĆ, County Court in Zagreb*
*Željka GRBAC, Ministry of Labour, Pension System, Family, and Social Policy*
*Maja GREGUROVIĆ, Police Administration Koprivničko-križevačka*
*Tara GRŠKOVIĆ, County Court in Osijek*
*Helena HAŠPL-JURIŠIĆ, Ministry of Labour, Pension System, Family, and Social Policy*
*Ema HRVATIN, County Court in Sisak*
*Luka KELLER, Croatian Alliance of Physically Disabled Persons Associations (HSUTI)*
*Dora KOPUN, Croatian Blind Union (HSS)*
*Katarina KOVAČIĆ, Social welfare centre Varaždin*
*Alica JAKUPOVIĆ-ROSIĆ, Police Administration Istarska*
*Jadranka JURINJAK, Head of the Service for Human Rights and Fundamental Freedoms, Directorate for Human Rights, National Minorities and Ethics, Ministry of Justice and Public Administration*
*Suzana KIKIĆ, Senior Lecturer, Police College, Police Academy, Ministry of the Interior*
*Jadranka KRSTIĆ, Croatian Organisation of the Deaf and Hard of Hearing (HSGN)*
*Sandra LIPOVAC, Department for Victim and Witness Support, County Court in Rijeka*
*Andreja MAKAR, Office of the Ombudswoman for PwD*
*Dragana MARINA, County Court in Zadar*
*Joško MATIĆ, Zagreb's Association of Disabled Workers (UIRZ)*
*Ivona MLAKAR, Croatian Organisation of the Deaf and Hard of Hearing (HSGN)*
*Karmen NOVAK HRGOVIĆ, High Misdemeanour Court of the Republic of Croatia*
*Andrea POSAVEC FRANIĆ, Director, Judicial Academy*
*Jasminka PRIBANIĆ, County Court in Rijeka*
*Štefica ROGINIĆ, Head of SOIH SOS – hotline for women with disabilities who are victims of violence*
*Vesna ROSIĆ KAUZLARIĆ, Police Administration Zagrebačka*
*Leke SOKOLAJ, Croatian Association of Societies of Disabled Workers (HSUIR)*
*Vedrana ŠIMUNDŽA NIKOLIĆ, Assistant Minister, Criminal Justice Administration, Ministry of Justice and Public Administration*
*Mislav ŠVIGIR, Police Administration Zagrebačka*
*Sandra TURKANOVIĆ, Women's Group Karlovac „Korak"*
*Lorena VOVK, Croatian Union of Associations of Persons with Disabilities (SOIH)*
*Justina ZAJC, sign language interpreter, Croatian Organisation of the Deaf and Hard of Hearing (HSGN)*
*Branka ZEČEVIĆ, Head of the Service for Policies for Persons with Disabilities and Other Socially Vulnerable Groups, Ministry of Labour, Pension System, Family, and Social Policy*

Members of the ARVID project team/partnership:

*Zoran BURIĆ, HR National Expert/ Faculty of Law, University of Zagreb*
*Ivana ETEROVIĆ, Croatian Law Centre*
*Vesna GRUBIĆ, Director, Croatian Law Centre*
*Nikica HAMER VIDMAR, Head of the Victim and Witness Support Sector, Criminal Justice Administration, Ministry of Justice and Public Administration*
*Elizabeta IVIČEVIĆ KARAS, Key Expert/ Faculty of Law, University of Zagreb*
*Darijo JURIŠIĆ, Deputy Ombudsman, Office of the Ombudswoman for PwD*
*Sara KAURIN, Croatian Law Centre*
*Anka SLONJŠAK, Ombudswoman for PwD*
*Miren ŠPEK, Association for Victim and Witness Support*

## *3. Information Materials for Persons with Disabilities*

### *3.1. Rights of European Union Citizens who are Victims of Crime*

- **the right to receive information and support;**
- **the right to participate in the criminal procedure;**
- **the right to protection and special protection if you are a victim with special protection needs.**

**The right to receive information and support includes the following rights:**

- the right to understand and be understood;
- the right to obtain information from the first contact with the competent authority;
- the right to file a report for a criminal offence in a language you understand or by receiving the necessary language assistance;
- the right to a written confirmation of the formal report that you filed with the competent authority, stating the basic elements of the subject criminal offence, in a language you understand, if you request it (free of charge);
- the right to obtain information about your case: about any decision concerning a failure to initiate or finalise an inquiry or on a failure to carry out criminal prosecution against the perpetrators, about the time and place of the court proceedings and the nature of the accusations against the perpetrator, about any final judgement and any information providing you with the knowledge on the state-of-play of the criminal procedure (except in exceptional cases when such a notification might have a detrimental effect on the appropriate resolution of the case);

- the right to be notified, on your request, on the release or breakout from prison of the person who was detained, as well as all relevant measures that have been undertaken for your protection;
- the right to interpretation and translation during the criminal procedure;
- the right of access to victim support services;
- the right to effective psychological and other professional assistance and the support of victim support services

**The right to participate in the criminal procedure includes the following rights:**

- the right to be heard;
- the right to review the decision on the failure to initiate criminal prosecution, except if the consequence of such a decision is an extra-judicial settlement in conformity with the law;
- the right to safeguards in the context of restorative justice services – the state is duty-bound to implement measures to protect you from secondary and repeated victimisation, intimidation, and retaliation;
- the right to legal aid if you have the status of a party in criminal proceedings;
- the right to a refund of costs;
- the right to the recovery of assets that were temporarily confiscated in the context of the criminal procedure, except when they are needed for the purposes of the criminal procedure;
- the right to a decision on the compensation of damages by the perpetrator as part of the criminal procedure;
- **if you have residence in a Member State other than the one where the criminal offence was committed, you have the right to file a report to the competent authorities of the Member State of residence if you are not able to do this in the Member State where the crime was committed or if, in the case of a serious criminal offence (as established by national law), you do not wish to do so.**

**The right to protection includes the following rights:**

- the right to be protected against secondary and repeated victimisation, intimidation, and retaliation, including protection against the risk of emotional and psychological trauma, and the protection of dignity when being examined and giving testimony;
- the right to avoid contact with the perpetrator;
- the right to protection during the inquiries that are part of the criminal procedure;
- the right to the protection of privacy;
- the right to special protection during the criminal procedure if you have special protection needs. Special protection needs are established through an individual needs assessment process which is carried out by the authority interviewing you. Victim support services play an important role in this process because they can give recommendations concerning the application of necessary protective measures to the authorities that are interviewing

you. This is another reason why it is a good idea to turn to victim support services as soon as you can;
- the right to special protection during the criminal procedure if you are a child.

This material will be available on the following links:

- Ministry of Justice and Public Administration
- Office of the Ombudsman for Persons with Disabilities
- Victims and Witnesses Support Association
- Croatian Law Centre

On this link of the Ministry of Justice and Public Administration, you can find contacts to the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences and Misdemeanours; to other organisations that provide psychosocial and legal assistance, and an interactive map of places where victims can find assistance and support in the territory of the Republic of Croatia.

**Contacts of Victim and Witness Support Departments at County Courts**

| **VICTIM AND WITNESS SUPPORT DEPARTMENTS** | | |
|---|---|---|
| **County Court in Osijek** | address: | Europska avenija 7, 31 000 Osijek |
| | tel: | 031/228-500 |
| | email: | podrska-svjedocima@zsos.pravosudje.hr |
| **County Court in Rijeka** | address: | Žrtava fašizma 7, 51000 Rijeka |
| | tel: | 051/355-645 |
| | email: | podrska-svjedocima-ri@pravosudje.hr |
| **County Court in Sisak** | address: | Trg Ljudevita Posavskog 5, 44000 Sisak |
| | tel: | 044/524-419 |
| | email: | podrska-svjedocima-sk@zssk.pravosudje.hr |
| **County Court in Split** | address: | Gundulićeva 29a, 21000 Split |
| | tel: | 021/387-543 |
| | email: | podrska-svjedocima-st@pravosudje.hr |
| **County Court in Vukovar** | address: | Županijska 33, 32000 Vukovar |
| | tel: | 032/452-529 |

| | | |
|---|---|---|
| | email: | podrska-svjedocima-vu@pravosudje.hr |
| **County Court in Zadar** | address: | Borelli 9, 23 000 Zadar |
| | tel: | 023/203-640 |
| | email: | podrska-svjedocima@pravosudje.hr |
| **County Court in Zagreb** | address: | Trg N.Š. Zrinskog 5, 10 000 Zagreb |
| | tel: | 01/4801-062 |
| | email: | podrska-svjedocima-zg@pravosudje.hr |

Departments within county courts also operate at the competent municipal and misdemeanour courts.

If you do not live in Osijek, Rijeka, Split, Vukovar, Zadar, or Zagreb, you can also contact one of the listed victim and witness support departments.

In counties where such departments have not been organised, there are associations belonging to the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences

| COUNTY | PARTNER'S NAME | CONTACT |
|---|---|---|
| VARAŽDIN<br>MEĐIMURJE | **VICTIMS AND WITNESSES SUPPORT ASSOCIATION** | 095/116 00 66<br>email: varazdin@pzs.hr<br>http://pzs.hr/ |
| ISTRIA | **CENTRE FOR CIVIL INITIATIVES POREČ** | 095/3500-733<br>email: podrskacgi@gmail.com<br>http://www.cgiporec.hr/ |
| POŽEGA-SLAVONIA<br>BJELOVAR-BILOGORA | **CENTRE FOR SUPPORT AND DEVELOPMENT OF CIVIL SOCIETY DELFIN** | 034/411-780<br>email: delfin.zamir@gmail.com |

| | | |
|---|---|---|
| | | www.delfin-pakrac.com |
| DUBROVINIK-NERETVA | **DEŠA – DUBROVNIK** | 020/311-625<br><br>email: zip@desa-dubrovnik.hr<br><br>www.desa-dubrovnik.hr |
| KOPRIVNICA-KRIŽEVCI<br><br>BJELOVAR-BILOGORA | **“HERA KRIŽEVCI” ASSOCIATION FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS** | 048/271-335<br><br>email: info@udruga-hera.info<br><br>www.udruga-hera.info |
| BROD-POSAVINA | **INFORMATION LEGAL CENTRE** | 035/448-533<br><br>email: info@ipc.com.hr<br><br>www.ipc.com.hr |
| KARLOVAC<br><br>LIKA-SENJ | **“KORAK” WOMEN’S GROUP KARLOVAC** | 047/600-392<br><br>email: podrska.korak@gmail.com<br><br>www.grupakorak.hr |
| VIROVITICA-PODRAVINA | **S.O.S. VIROVITICA – COUNSELLING, EMPOWERMENT, COOPERATION** | 033/721-500<br><br>email: sos.vt@email.t-com.hr<br><br>www.sosvt.hr |
| KRAPINA-ZAGORJE | **CESI – CENTER FOR EDUCATION, COUNSELLING AND RESEARCH** | 049/492-688<br><br>email: zrtveisvjedoci@cesi.hr |

| | | |
|---|---|---|
| | | http://www.cesi.hr/hr/sos/ |
| ŠIBENIK-KNIN | **ZVONIMIR ASSOCIATION** | 022/662-554<br><br>email: zvonimir@zvonimir.hr<br><br>www.zvonimir.hr |
| **CITY OF ZAGREB**<br><br>**NETWORK COORDINATOR:** | **WOMEN'S ROOM – CENTRE FOR SEXUAL RIGHTS** | 01/6119-174<br><br>email: zenska.soba@zenskasoba.hr; savjetovaliste@zenskasoba.hr<br><br>http://zenskasoba.hr/ |

### *3.2. Rights of Croatian Citizens who are Victims of Crime*

Criminal procedure bodies have the duty to inform the victim of a criminal offence about his or her rights. They have the duty to do so immediately when undertaking the first action within the criminal procedure involving the participation of the victim. The notification of their rights must be given to victims in a manner that is easy to understand, and the criminal procedure bodies must check that the victims have understood the given information about their rights. In practice, police officers generally present victims with written notification informing them of their rights, which also includes the contact information of available services providing support to victims of crime. In the later stages of the procedure, it is also possible for victims to receive similar notification of their rights from the state attorney office and from the court. This document contains a detailed and easily understandable explanation concerning the rights about which victims are informed by the delivery of the written notification.

#### 3.2.1. The rights of victims of all criminal offences:

#### 1. The right of victims to access support services for victims of crime

As a victim of a criminal offence, you have the right to seek the assistance of victim support services. Their role is to help you deal with the consequences of the criminal offence and to find your way more easily through the criminal and misdemeanour procedure. Some county courts have departments providing support to victims and witnesses. They will provide you with the basic

information about your rights as a victim, and about the criminal and misdemeanour procedure that will be conducted after the criminal or misdemeanour offence has been reported to the police. You can turn to these departments even before the criminal or misdemeanour offence has been reported to the police. These departments also provide emotional support. After you receive the basic information about the criminal or misdemeanour procedure, to make your participation in the criminal procedure less distressing, the employees of these departments will meet you at your arrival at the court and will stay with you in the waiting area, and, if necessary, in the courtroom. They will also refer you to government and non-governmental organisations where, depending on your needs, you can receive appropriate professional assistance. It is important that you contact the support services because, since they become actively engaged in the criminal procedure, taking on the role of a person of trust or participating in the individual needs assessment of the victim by sending recommendations to competent authorities, they can significantly alleviate the burden of coping with the consequences of the criminal offence and the negative experiences related to your participation in the criminal procedure.

**2. The victim's right to effective psychological and other professional assistance and to the support of bodies, organisations, or institutions providing assistance to victims of criminal offences**

Emotional support is provided by the victim and witness support departments at county courts. They will prepare you by giving you basic information about what you can expect during the criminal or misdemeanour procedure. Moreover, they will remain with you throughout your stay at the court. In addition to these departments, you can also seek help at the social welfare centre and at institutions providing psychological assistance, such as the Division of School Medicine, Mental Health and Addiction Prevention at the Croatian Institute of Public Health, and centres for psychosocial assistance in particular counties (which primarily provide assistance to victims of the Homeland War). Associations or NGOs, i.e., civil society organisations that provide assistance and support to victims of criminal offences, also provide some forms of legal aid and give you additional advice about the rights and options that you have in the criminal procedure, and some of them also offer the opportunity to receive one-off financial assistance. In many NGOs, you can also receive psychological assistance, and persons who work in the NGO can take on the role of person of trust in the criminal procedure and actively engage in your individual needs assessment by sending recommendations to the competent authorities.

**3. The right of victims to protection against intimidation and retaliation**

If the perpetrator intimidates you or threatens that he or she will take revenge on you, it is important to report this to the police, state attorney or court (e.g., by going personally to a police station, by telephone, email, written submission to the court and/or state attorney office). If you have been intimidated, the bodies participating in the criminal procedure must undertake security measures, such as preventing you and the perpetrator meeting at the police station, state attorney office, or

court. If the perpetrator threatens to commit a new criminal offence, or complete the one he or she has started, or harasses or stalks you in any another way, it is important to immediately report this to the police. In this case, the measure of pre-trial detention may be imposed on the perpetrator, which includes deprivation of liberty and placement in prison. A restraining order may also be issued against the perpetrator, i.e., prohibition of stalking or harassing you as the victim. If a restraining order has already been issued against the perpetrator, or a prohibition of harassment or stalking, and he or she still approaches you or harasses you, it is important to immediately report this to the police. The police will protect you and undertake the necessary steps so that pre-trial detention may be imposed on the perpetrator who has violated the restraining order. The police will notify the state attorney about the violation of the restraining order, who can then file a proposal to the court to impose pre-trial detention on the perpetrator. The decision about pre-trial detention is always rendered by a court.

**4. The right to translation and interpretation**

Victims have the right to use their language during the procedure, including sign language for the deaf and the deaf-blind. If an action within the procedure is not conducted in the language that the victim speaks or understands, the authority undertaking the action must secure interpretation, or translation, or sign-language interpretation and translation for the deaf and deaf-blind, of what the victim and others are presenting, and of documents and other evidence that is presented.

**5. The right of victims to the protection of dignity when questioned as witnesses**

As a victim of a criminal offence, you have the right to be heard, so that the criminal procedure bodies – the police, the state attorney office, and the court – can hear what you wish to say. In doing so, they have to treat you with consideration. Criminal procedure bodies must protect you while you are giving testimony by not allowing insignificant or legally unacceptable questions. The court must take into account protection of your privacy, and when you are testifying, it can exclude the public if this is necessary for the protection of your privacy or family life.

**6. The right of victims to be heard without unjustified delay, and to have further hearings conducted only to the extent that is necessary for the needs of the criminal procedure**

As a victim, you have the right to be heard and to be interviewed by the criminal procedure bodies without unnecessary delay. As a rule, the victim is first interviewed by the police. The police interview with the victim is not carried out according to strict legally prescribed rules and cannot be used as evidence in criminal proceedings. Its purpose is for the police to obtain basic information about the criminal offence, which is necessary to prosecute the perpetrator, and also to provide appropriate protection to the victim. This is why, after being interviewed by the police, the victim is interviewed once more by the state attorney or on his or her order, by an investigator, and, finally, the victim testifies before a court. However, if it is necessary to examine a child or a victim who is particularly vulnerable due to his or her advanced age, health or disability, or a

victim for whom the body carrying out the interview established that he or she should receive special protection during the interview, instead of carrying out the interview before the state attorney, it will be carried out before the investigating judge. For the body carrying out the interview to assess what your needs are and whether you as a victim need special protection, it will ask specific questions, and it is important that you say whether you feel threatened and what you are afraid of. If special protection has been granted, the interview before the investigating judge can be conducted without direct contact between you and the accused, which means that during the interview, the perpetrator will not be in the same room as you. You will be placed in a separate room, you will hear the questions through headphones, and the interview will be recorded on an audio-video device. In such a case, you will not, as a rule, have to be interviewed again during the court hearing, but the recording of your interview will be reproduced and can be used as evidence in the proceedings. This will avoid the stress and burden that repeated testimony about a criminal offence can cause a victim, and this is how you can be protected from possible additional trauma.

**7. The right of victims to be accompanied by a person of trust when actions in which they participate are carried out**

The right to be accompanied by a person of trust concerns the right of the victim not to be left alone in the procedure. This means that, during the criminal procedure, you can be accompanied by a person you trust, who will give you emotional and psychological support. A person of trust can be a family member, a friend, or other persons who makes you feel safe. The person of trust can also be an employee of the victim and witness support department or, for instance, a social worker if you feel safer and more comfortable in his or her company, or a person working in a civil society organisation who is part of the support system and with whom you have established contact. The person of trust should not be a person who can also be heard as a witness in the criminal proceedings since, in such a case, he or she cannot be present during your interview as a victim and, therefore, in this sense, he or she cannot offer you support. You have the right to have the person of trust present with you during the whole procedure – at the police station, state attorney office and the court.

**8. The right of victims to have medical interventions on them carried out to the least possible extent and only if they are strictly necessary for the needs of the criminal procedure**

As a victim, you have the right to have medical interventions, such as physical medical examinations and other types of expertise that involve a physical examination, limited to the least possible extent, and for such medical interventions and expertise to be carried out only when they serve the interest of the criminal procedure, and if the evidence necessary for the criminal procedure could not be obtained in any other way, and only if they can be carried out without damaging your health. All the bodies involved in the procedure must be aware of the above – the police, the state attorney office, and the court. A physical examination involving the examination of bodily orifices and cavities generally requires your consent. If you have not given your consent

to such an examination, it can only be carried out on the basis of a reasoned court order. In such a case, you have the right to be informed about the content of the order, including the statement of reasons of the order. Any expertise involving the examination of bodily orifices or cavities may be carried out only on the basis of a reasoned court order.

**9. The right of victims to file a proposal to prosecute and bring a private action, to participate in the procedure as injured parties, to be informed of a dismissal of the criminal report or of the state attorney abandoning criminal prosecution, and the right to assume criminal prosecution**

As a victim, you have the right to file a proposal for the prosecution of the perpetrator in situations when a criminal offence was committed for which the state attorney cannot undertake *ex officio* criminal prosecution without the victim's previously submitting a proposal. The victim can file a proposal to prosecute, for example for the criminal offence of mobbing, or in some cases of threats or stalking against an adult. Concerning its content, a proposal to prosecute is equal to a criminal report since the form in which the proposal to prosecute must be filed has not been prescribed by law. Therefore, it can be filed in written form, but also orally by phone, or personally on the record. Once the victim files a proposal to prosecute, the state attorney acts *ex officio*, but is bound by the proposal, so, if the victim abandons the proposal, or withdraws it, the state attorney must abandon criminal prosecution. This is what differentiates the procedure of the state attorney regarding, on the one hand, cases where a proposal to prosecute is filed, and, on the other hand, cases where a criminal report for a criminal offence that is prosecuted *ex officio* is filed. If a criminal report is filed for a crime that the state attorney prosecutes *ex officio*, the victim who subsequently filed a criminal report may abandon it since the state attorney is not bound by the victim's action.

The victim also has the right to bring a private action for criminal offences that are prosecuted on the basis of a private action, and for which the state attorney has no authority to carry out criminal prosecution, such as the criminal offence of bodily injury (if the bodily injury is not serious, since for a serious bodily injury the state attorney prosecutes *ex officio*), coercion (except if the coercion was done out of hate, against a child, a person with a disability, or against a close person), for some forms of threat, for some criminal offences against assets, and for criminal offences against honour and reputation. In such a case, the victim, as a private plaintiff, prosecutes the perpetrator before a court, produces evidence, and the state attorney does not participate in the criminal procedure.

As a victim, you have the right to participate in criminal proceedings as the injured party. An injured party is not any victim, but only a victim who wishes to actively participate in criminal proceedings with the aim of promoting his or her own interests. As an injured party, the victim has some additional procedural rights – for example, the right to file proposals with the state attorney during inquiries to supplement the inquiry and other proposals in order to exercise the rights prescribed by law, the right to participate at the session of the indictment panel, the preparatory hearing, and the trial, the right to actively participate in the presentation of evidence at the trial

(for example regarding the examination of witnesses at the trial), and the (limited) right to lodge an appeal. All these rights can be exercised only by a victim who has taken on the role of injured party in criminal proceedings. However, for victims to be able to participate in the role of injured party in criminal proceedings, they must register for such participation – with the police, the state attorney office, or the court.

The state attorney must notify the victim if he or she has dismissed the criminal report or abandoned criminal prosecution, and, in such a case, the victim can assume criminal prosecution. By assuming criminal prosecution, the victim actually stands in the place of the state attorney, which means that the further conduct of the criminal procedure and its outcome depend to a significant extent on the victim's engagement. This means that in the further course of the criminal procedure, by assuming criminal prosecution, the victim also takes on the role of injured party, which means that assuming prosecution has the significance of registration to participate in criminal proceedings as the injured party. Assuming criminal prosecution imposes some obligations on the victims in terms of time, since the injured parties who have assumed prosecution must present evidence and advocate for the prosecution themselves, as well as obligations concerning financial means, since injured parties who have assumed criminal prosecution must bear the costs of the procedure on their own.

**10. The right of victims to be notified by the state attorney on actions taken and the possibilities of filing a complaint to the higher state attorney**

As a victim, you have the right to be informed of the course of the procedure, and you can also request this information. Thus, after two months from the filing of the criminal report have expired, you can request the state attorney to inform you of the actions taken. If the state attorney has not notified you about the actions taken, and he or she had the duty to do so within thirty days from receiving the request, or if you are not satisfied with the given notification or undertaken actions, you can file a complaint with the higher state attorney.

**11. The right of victims to be notified, on their own request, on the lifting of the measure of pre-trial detention, the breakout of the accused, or the release of the convicted person from prison, and on the measures taken with a view to protecting victims.**

If the accused was sent into detention, pre-trial detention or if the perpetrator is serving time in prison, as a victim you have the right to be notified on the lifting of the measure of detention, or pre-trial detention, the breakout of the accused, or the release of the perpetrator from prison, but only if you so request. You will receive notification about the accused being released from detention or pre-trial detention from the police, as well as notification about the breakout of the perpetrator from prison, and you will receive notification about the perpetrator being discharged from regular or conditional release from the Victim and Witness Support Service at the Ministry of Justice and Public Administration. Therefore, you can choose whether you wish to receive a notification about the release of the accused or the perpetrator. The criminal procedure bodies must

ask whether you wish to receive such a notification, and, in any case, you can also express such a wish. If you request this, you will also be notified about the measures that have been taken for your protection. The measures taken in such cases generally include the physical protection of the victim provided by the police.

**12. The right of victims to be notified about any decision concerning the final completion of the criminal procedure.**

As a victim, you have the right to be notified about any final decision completing the criminal procedure. Should you not receive such notification, you have the right to request it from the state attorney office if the decision was adopted during the investigation. If it was adopted in proceedings before the court, you have the right to request it from the court.

**13. The right of victims to other rights prescribed by law**

As a victim, you also have other rights prescribed by the Criminal Procedure Act, such as the right to inspect the case file, the right to receive a written confirmation that you have filed a criminal report, the right to the help of an interpreter or other person if you do not speak or understand the language of the body with which you are filing the criminal report, and, in such a case, you also have the right to free translation of the confirmation that you have filed the criminal report into a language that you understand.

As a victim, you also have some rights prescribed not only by the Criminal Procedure Act, but also by other laws, for example by the Civil Obligations Act (concerning, for example, the right to compensation of damages), the Social Welfare Act, the Act on Protection against Family Violence, and other laws. Other rights that you can exercise depend on the circumstances of the committed criminal offence and on your personal and family situation.

**14. The right of victims to the professional assistance of a counsellor at the expense of budgetary funds when submitting a claim for damages (for criminal offences punishable by more than five years imprisonment)**

Victims of a criminal offence punishable by more than five years imprisonment, if they suffer very serious consequences of the criminal offence, have the right to the professional assistance of a counsellor at the expense of budgetary funds when filing a claim for damages. Victims can exercise this right to be assigned a counsellor by filing a request with the court, and the court will then appoint a legal representative.

**15. The right of victims to financial compensation from the state budget (for violent intentional crime)**

As a victim, you can exercise this right under the following conditions:

- if you are a citizen of the Republic of Croatia or a citizen of an EU Member State, or if you have residence on its territory;

- if you have suffered serious bodily injury or serious damage to your health as a consequence of the criminal offence;

- if the criminal offence has been reported and recorded with the police or state attorney office within six months from the commission of the criminal offence, regardless of whether or not the perpetrator is known;

- if you have submitted a written request on an official form and enclosed the necessary documentation.

As a victim, you can exercise the right to be compensated for:

- the costs of treatment (if you do not have health insurance);

- lost earnings up to HRK 35,000.

A close blood relative of a deceased victim has the right to damages for the loss of statutory maintenance up to the amount of HRK 70,000, and funeral costs up to the amount of HRK 5,000.

The procedure is initiated by completing an official form, enclosing all the necessary documents listed on the form.

The request form is available at any police station, state attorney office, municipal and county courts, and in electronic form, on the official websites of the Ministry of Justice and Public Administration of the Republic of Croatia (https://pravosudje.gov.hr/UserDocsImages//dokumenti/Žrtve%20i%20svjedoci//Obrazac%20zahtjeva%20za%20novčanu%20naknadu%20žrtvama%20kaznenih%20djela.pdf), of the Ministry of the Interior of the Republic of Croatia, of the State Attorney's Office of the Republic of Croatia, and of municipal and county courts.

The request is submitted to the Ministry of Justice and Public Administration within six months from the commission of the criminal offence, but it can also be submitted later if the victim, for justified reasons, could not submit the request within the set deadline, at the latest three months from the day when the justified reasons ceased to exist. After a period of three years from the commission of the criminal offence has lapsed, the request can no longer be submitted. The police, the state attorney office and courts must provide you with information on the right to damages and information about whom to address to exercise this right. They must also provide you with the necessary forms for submitting the request, and, at your request, give you general instructions and information about how to complete the request and what accompanying documents are needed.

### 16. The right of victims to participate in criminal proceedings as injured parties and to exercise the rights prescribed by law

As mentioned in point 9, as a victim, you have the right to participate in criminal proceedings as the injured party. An injured party is not any victim, but only a victim who wishes to actively participate in criminal proceedings with the aim of promoting his or her own procedural interests. As an injured party, the victim has some additional procedural rights.

An injured party has the right to be informed of his or her rights, assistance, and progress of the case. He or she has the right to participate in criminal proceedings in such a manner as to point out facts that are important for establishing the commission of the criminal offence, the perpetrator, and the claim for damages. In the criminal procedure, the injured party has the right to use his or her own language. He or she has the right to present evidence at the trial, to put questions to witnesses and expert witnesses, and to add comments and explanations to their testimonies. The injured party has the right to present a closing statement after the presentation of evidence has been completed. He or she has the right to give statements and inspect files and cases that serve as evidence. The injured party also has the right to physical protection in particular cases regulated by the Witness Protection Act, as well as the right to privacy and protection against secondary victimisation. When testifying, the injured party has the right to refuse to answer questions if it is likely that by answering he or she would expose himself or herself or a close relative, to serious disgrace, considerable material damage or criminal prosecution.

The injured party has the right to assume and continue criminal prosecution if the state attorney abandons prosecution.

The injured party has the right to request compensation of damages from the perpetrator, i.e., the right to file a claim for damages, and the right to a refund of the costs of proceedings. The claim for damages may be filed during the criminal procedure until the completion of the trial or, in civil litigation, separate from the criminal procedure.

The right to free counselling and legal aid are also the rights of injured parties, provided that they meet the conditions prescribed by the Free Legal Aid Act. You can find additional information on this link.

## 3.2.2. Additional rights of children

### 1. The right of victims to legal representation at the expense of budget funds

A child who is a victim of a criminal offence has the right to free assistance by a legal representative. The legal representative is appointed by the court, and the costs of his or her services are covered from the state budget. A legal representative is an attorney, thus a lawyer who is familiar with the rules of the criminal procedure and the rights of children in the criminal

procedure. The legal representative will help a child victim to understand the criminal procedure, to understand his or her rights in the procedure, and to exercise these rights in the best possible manner in his or her interest. The legal representative will represent the child in court in the criminal proceedings and will help the child exercise the right to damages.

**2. The right of victims to the confidentiality of personal data**

A child who is a victim of a criminal offence has the right to the confidentiality of personal data, which means that all the participants in the criminal procedure, including police officers, state attorneys, judges, witnesses and expert witnesses, and all others who might have participated in the criminal procedure, must not disclose to anyone any data about the child that could reveal the child's identity or other personal data.

**3. The right of victims to the exclusion of the public**

A child victim of a criminal offence has the right to the exclusion of the public, which means that the court must exclude the public from the entire hearing, or a part of it, to protect the child, or any person under eighteen years of age.

### 3.2.3. Additional rights of victims of criminal offences against sexual freedom and the criminal offence of trafficking in human beings

**1. The right of victims to talk to a counsellor before the interview at the expense of budget funds**

As a victim of a criminal offence for whom special protection needs have been established on the basis of an individual assessment, you have the right to talk to a counsellor before the interview, and this counsellor will be free of charge for you. In the majority of cases, first the police conduct an informal interview with the victim to collect information which cannot be used as evidence in criminal proceedings and does not represent an interrogation. A formal interview will be conducted by the state attorney, or a formal interview will take place before a judge. When you receive an invitation to an interview from the body that will carry it out (the state attorney or the court), you can request in writing that a counsellor be assigned to you.

**2. The right of victims to representation at the expense of budget funds**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to the free assistance of a legal representative. The legal representative is appointed by the court, and the costs of his or her services are borne by the state budget. A legal representative is an attorney, thus a lawyer who is familiar with the rules of the criminal procedure and the rights of victims in the criminal procedure. The legal representative will help you understand the criminal procedure, assist you in understanding your rights in the

procedure, and how to exercise these rights in the best possible manner in your interest. The legal representative will represent you in court in the criminal proceedings and will help you exercise the right to damages.

**3. The right of victims to be interviewed at the police and the state attorney office by a person of the same gender, and, if this is possible in the case of a repeated interview, to be interviewed by that same person**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to be interviewed by a person of the same gender as you when being interviewed at the police. As a rule, a victim is first interviewed by the police. The police interview is not carried out according to strict legally prescribed rules and cannot be used as evidence in criminal proceedings. Its purpose is for the police to obtain basic information about the criminal offence, which is necessary to prosecute the perpetrator, and also to provide appropriate protection for the victim. After the police, you will be interviewed by the state attorney or, on his or her order, by an investigator, and the records of that interview can be used as evidence in criminal proceedings. As a victim, you have the right for the police and the state attorney each to interview you only once, and two or more times only if this is necessary for the needs of the criminal procedure. However, repeated interviewing is sometimes necessary. In that case, you have the right to be interviewed by the same police officer, or the same state attorney who has already interviewed you.

**4. The right of victims to refuse to answer questions that are not related to the criminal offence, and which are connected to their strictly personal life**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to refuse to answer questions that are connected to your strictly personal life if that question is not so directly related to the criminal offence that an answer to the question would be relevant for proving the guilt of the accused and the commission of the criminal offence. For example, you do not have to answer the question of how many partners you have had, or a question connected with your sexual affinities and habits.

**5. The right of victims to request to be interviewed via audio-video**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to request to be interviewed in a particular manner, where you will not come into contact with the accused. During the examination, you will be in a room with the judge, and only your legal representative (attorney) and a person of trust that you have chosen yourself can also be present. The accused will be in another room. You will not see or hear the accused, nor will he or she be able to ask you questions directly, but the questions will be put to you by the judge who is conducting the interview. The entire interview will be recorded on an audio-video recording device and the recording may be used as evidence in criminal proceedings. The purpose of the recording is for you, as the victim, not to have to be questioned again at the

trial, because the recording of your interview will be played at the trial and used as evidence. Exceptionally, if it is nevertheless necessary for you to be interviewed again, this interview will be carried out in the described manner, without direct contact with the accused.

**6. The right of victims to the confidentiality of personal data**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to free assistance by a legal representative. This means that all the criminal participants in the criminal procedure, including police officers, state attorneys, judges, witnesses and expert witnesses, and all others who might have participated in the criminal procedure, must not disclose to anyone any data which could reveal your identity or other personal data.

**7. The right of victims to the exclusion of the public from the hearing**

As a victim of a criminal offence against sexual freedom or a criminal offence of trafficking in human beings, you have the right to the exclusion of the public. This means that the court must exclude the public from the whole trial, or a part of it, to protect your privacy and interests.

### 3.2.4. Additional rights of victims who have been identified as having special protection needs on the basis of an individual assessment

**1. The right of victims to talk to a counsellor before the interview at the expense of budget funds**

As a victim of a criminal offence for which special protection needs have been established on the basis of an individual assessment, you have the right to talk to a counsellor before the interview, and this counsellor will be free of charge for you. In the majority of cases, first the police conduct an informal interview with the victim to collect information which cannot be used as evidence in criminal proceedings and does not represent an interrogation. A formal interview will be conducted by the state attorney, or a formal interview will take place before a judge. When you receive an invitation to an interview from the body that will carry it out (the state attorney or the court), you can request in writing that a counsellor be assigned to you.

**2. The right of victims to be interviewed at the police and the state attorney office by a person of the same gender, and in the case of a repeated interview, to be interviewed by that same person if this is possible.**

As a victim of a criminal offence who has been identified as having special protection needs on the basis of an individual assessment, you have the right to be interviewed by a person of the same gender as you when being interviewed at the police. As a rule, the victim is first interviewed by the police. The police interview is not carried out according to strict legally prescribed rules and

cannot be used as evidence in criminal proceedings. Its purpose is for the police to obtain basic information about the criminal offence, which is necessary to prosecute the perpetrator, and also to provide appropriate protection to you as the victim. After the police, you will be interviewed by the state attorney or, on his or her order, by an investigator, and the records of that interview can be used as evidence in criminal proceedings. As a victim, you have the right for the police and the state attorney each to interview you only once, and two or more times only if this is necessary for the needs of the criminal procedure. However, repeated interviews are sometimes necessary. In this case, you have the right to be interviewed by the same police officer, or the same state attorney who has already interviewed you.

**3. The right of victims to refuse to answer questions that are not related to the criminal offence, and which are strictly connected to their personal life**

As a victim of a criminal offence, who has been identified as having special protection needs on the basis of an individual assessment, you have the right to refuse to answer questions that are connected to your strictly personal life if those questions are not so directly related to the criminal offence that an answer to those questions would be relevant to prove the guilt of the accused and the commission of the criminal offence. For example, you do not have to answer a question of how many partners you have had, or a question connected with your sexual affinities and habits.

**4. The right of victims to request to be interviewed via audio-video**

As a victim of a criminal offence, who has been identified as having special protection needs on the basis of an individual assessment, you have the right to request to be interviewed in a particular manner, where you will not come into contact with the accused. During the interview, you will be in a room with the judge, and only your legal representative (attorney) and a person of trust that you have chosen yourself can also be present. The accused will be in another room. You will not see or hear the accused, nor will he or she be able to ask you questions directly, but the questions will be put to you by the judge who is conducting the interview. The whole of the interview will be recorded on an audio-video recording device and the recording may be used as evidence in criminal proceedings. The purpose of the recording is that you, as the victim, do not have to be interviewed again at the trial, because the recording of your interview will be played at the trial and used as evidence. Exceptionally, if it is nevertheless necessary for you to be interviewed again, this interview will be carried out in the described manner, without direct contact with the accused.

**5. The right of victims to the confidentiality of personal data**

As a victim of a criminal offence, who has been identified as having special protection needs on the basis of an individual assessment, you have the right to the confidentiality of personal data. This means that all the participants in the criminal procedure including police officers, state attorneys, judges, witnesses and expert witnesses, and all others who might have participated in

the criminal procedure, must not disclose any data that could reveal your identity or other personal data.

**6. The right of victims to the exclusion of the public from the hearing**

As a victim of a criminal offence, who has been identified as having special protection needs on the basis of an individual assessment, you have the right to the exclusion of the public. This means that the court must exclude the public from the whole hearing, or a part of it, to protect your privacy and interests.

### 3.2.5. Additional rights of victims of domestic violence (pursuant to AFV - Article 6 (1):

**1. The right of victims to be informed, at their own request, without delay about the lifting of the measure of custody or breakout of the accused from detention, and about the repeal of the decision on imposing security measures and abolishing precautionary measures or about the release of the convicted person from prison**

If, in the criminal proceedings, detention or pre-trial detention was imposed on the accused, or if the accused was held in custody, or if another security measure or precautionary measure was imposed on him or her in misdemeanour proceedings, or if the perpetrator is serving a prison sentence, you, as a victim, have the right to be informed of the lifting of the measure of detention, pre-trial detention, holding in custody, breakout of the accused, repeal of the security measures or abolishment of precautionary measures, or the release of the perpetrator from prison, but only if you wish to be informed of the above. You will generally receive notification through the police, and notification about a breakout or the release of the perpetrator from prison through the Victims and Witness Support Service of the Ministry of Justice and Public Administration. Therefore, on the inquiry of the bodies of criminal/misdemeanour procedure (the police, state attorney office, court) you can choose if you wish to receive notification about the release of the accused, or perpetrator, from detention. You can also request the exercise of this right from the above-mentioned bodies yourself.

**2. The right of victims to the confidentiality of the data whose disclosure could threaten their safety and that of persons close to them, and to the exclusion of the public from court proceedings**

As a victim of domestic violence, you have the right to the confidentiality of the data whose disclosure could threaten your safety, or the safety of people close to you. This means that all the participants of the criminal or misdemeanour procedure, including police officers, state attorneys, judges, witnesses, expert witnesses, and others who might have participated in the procedure, must not disclose to anyone data, for example, on the address of the shelter where you have been staying or data about another temporary address where you have taken refuge from the perpetrator. You also have the right to the exclusion of the public from the proceedings before the court, so that the

court must exclude the public from the entire hearing or a part of it in order to protect your privacy and security.

### 3. The right of victims to legal representation in the procedure

As a victim, you have the right to legal representation in the procedure. A legal representative is an attorney, thus a lawyer who is familiar with the rules of the criminal procedure and the rights of victims in the criminal procedure. The legal representative will help you to understand the criminal procedure, assist you in understanding your rights in the procedure, and how to exercise these rights in the best possible manner in your own interest. The legal representative will represent you in the criminal proceedings before the court and will help you exercise the right to damages. Generally, you will have to bear the costs of engaging a legal representative yourself, except if, pursuant to the rules of the Criminal Procedure Act, you are granted the right to a legal representative at the expense of budgetary funds, for example, if you are a child or a victim of a sexual offence or of trafficking in human beings, in which cases the state will bear the costs of the legal representative.

### 4. The right of victims to be interviewed at the police by a person of the same gender

As a victim of domestic violence, you have the right to be interviewed at the police by a person of the same gender as you. As a rule, the victim is first interviewed by the police. The police interview is not carried out according to strict legally prescribed rules and cannot be used as evidence in criminal proceedings. Its purpose is for the police to obtain basic information about the criminal offence, which is necessary to prosecute the perpetrator, and also to provide appropriate protection to you as the victim. After the police, you will be interviewed by the state attorney or, on his or her order, by an investigator, and the records of that interview can be used as evidence in criminal proceedings. When you have been interviewed by the police, sometimes it will be necessary for you to be interviewed again. In that case, you have the right to be interviewed by the same police officer, or the same state attorney who has already interviewed you.

### 5. The right of victims to avoid contact with the perpetrator before and during the procedure, except when the misdemeanour procedure requires such contact

As a victim of domestic violence, you have the right for the bodies conducting the criminal or misdemeanour procedure to proceed in such a way as to avoid any possible contact between you and the accused, for example during the interview at the police station or state attorney office. The procedure will be organised in such a way as to avoid you meeting the perpetrator in the corridors of the police station or the court. In addition, you can request a particular manner to be examined before the court so that you do not come into contact with the accused. Such an interview is conducted so that you will be in a room with the judge, while the accused will be in another room. You will not see or hear the accused, nor will he or she be able to ask you questions directly, but the questions will be put to you by the judge who conducts the interview. The whole of the

interview will be recorded on an audio-video recording device and the recording may be used as evidence in criminal proceedings. The purpose of the recording is for you, as the victim, not to have to be interviewed again at the trial, because the recording of your interview will be played at the hearing, and it will serve as evidence. Whether the interview of you as the victim will be conducted in this way will be decided by the court.

**6. The right of victims to temporary accommodation in a suitable institution**

If you state at the police that you would like to be accommodated in a suitable institution, the police officer must immediately inform the competent social welfare centre about your need and the social welfare centre will consider the reasons why you are requesting accommodation and will place you in a suitable institution of the social welfare body, another institution, or an NGO. In order to resolve your accommodation, you can also turn directly to the Victim and Witness Support Service, to the social welfare centre or an NGO of your choice. You will receive the addresses and telephone numbers of these institutions and organisations in the area where you live from the police.

**7. The right of victims to police protection and security for the undisturbed retrieval of personal possessions when leaving the common household (court warrant)**

When leaving the common household, the police will provide protection based on a court order (warrant) of the misdemeanour court, which the court can issue after initiating misdemeanour proceedings. As a rule, the court issues this measure if the accused has not been deprived of freedom, but it can also issue it when the accused has been deprived of freedom but when danger exists from other family members. The order (warrant) should state which things you are allowed to take, and these are things essential for everyday life (for example: documents, clothes, shoes, children's accessories, etc.). The police officers will go to your apartment with you and secure the undisturbed retrieval of objects and ensure physical protection against any attacks.

### *3.3. Criminal Procedure – a General Overview*

A criminal procedure is a range of legally regulated actions taken by different government bodies and other participants of the criminal procedure when it is probable that a criminal offence has been committed. A criminal offence is a violation of fundamental social values; thus, society reacts to it by punishing the perpetrator of the offence. For a person to be found guilty of a criminal offence and to be punished, a criminal procedure must be conducted. A criminal procedure is a complex mechanism that involves various stages and where a key role is played by different state authorities.

The course of the criminal procedure

The starting point of this procedure usually involves **the police** who take initial actions upon the suspicion that a criminal offence has been committed. The police inform the state attorney about the results of their work. Based on the results of the police activities, **the state attorney** decides whether further actions should be taken against a particular person, which take the legal format of inquiries or investigations. Following the completion of an inquiry or investigation, the state attorney decides whether to raise an indictment before the competent court.

After the state attorney has raised the indictment, **the court** will decide at the next session of the indictment panel whether the indictment is founded on a sufficient amount of legally valid evidence which would justify conducting the central stage of the procedure – a court trial. The trial ends with the rendering of a judgment.

The judgment completing the trial is known as a first-instance judgment. This does not generally end the procedure, because the party who is not satisfied with the first-instance judgment can challenge such a judgment before the appellate or second-instance court. The appellate procedure can result either in the first-instance judgment being upheld or reversed, which generally completes the criminal procedure (the judgment becomes final), or by the judgment being quashed and the case remanded to the stage of first-instance court proceedings.

### The participants of the criminal procedure

In addition to government bodies (the police, the state attorney office, and the court), there are also other participants involved in the criminal procedure. The main role in the procedure is held by **the accused**, or the person who is believed to have committed the criminal offence. Even when a criminal offence was committed in front of a large number of people and it has been clear from the very beginning who the perpetrator is, throughout the criminal procedure, he or she is not referred to as the perpetrator of the criminal offence, but the term "accused" is used to refer to this person. The reason for this is that one of the fundamental rules of the criminal procedure is the **presumption of innocence**, which means that an individual cannot be considered to be guilty of a criminal offence before his or her guilt has finally been determined by a court judgment.

The presumption of innocence also implies that the state attorney must prove the guilt of the accused in criminal proceedings, and he or she must do so beyond reasonable doubt. This also means that the accused does not have to prove his or her innocence and can thus decide to remain silent during the criminal procedure. The accused in the criminal procedure can engage a defence counsel. The defence counsel is an attorney whose task is to act in the criminal procedure exclusively in the interest of the accused.

The **victim of a criminal offence** is also a regular participant in the criminal procedure. When a particular person has become a victim of a criminal offence, the state has the duty to protect this person, including to effectively conduct the criminal procedure. This primarily means that government authorities, primarily the police and the state attorney office, must thoroughly investigate the circumstances in which the criminal offence was committed, take measures to

identify and find the perpetrator of the criminal offence, and to punish the perpetrator in conformity with proceedings legally conducted before a competent court.

### Giving testimony in the criminal procedure

The victim of a criminal offence will usually participate in the criminal procedure as a witness, giving a statement on the criminal offence that was committed to his or her detriment. The victim will, as a rule, give statements about the circumstances of the criminal offence several times before different government bodies. Generally, the first statement will be given at the police. However, this statement may not be used as evidence in criminal proceedings. During the inquiry or investigation, the victim will give a statement before the state attorney. It will probably be necessary for the victim to come to the trial and testify before the court.

When victims in the criminal procedure find themselves in the role of witnesses, the state, especially if dealing with vulnerable groups or victims of violent intentional crime, has the duty to take measures to protect them as far as possible against additional trauma which could be caused to the victims when testifying about the criminal offence and participating in the criminal procedure. Thus, in the case of particular categories of victims, an effort is made to ensure that the victims have to testify the fewest times possible about the traumatic experience of the criminal offence and that their direct confrontation with the accused is avoided.

### Participation of victims in the criminal procedure in the role of injured parties

Besides victims having to participate in the criminal procedure as a witness, they also have the possibility of choosing to participate in the proceedings in the role of injured parties. By assuming the role of injured party, victims of a criminal offence have the possibility:

a) to be regularly informed of the progress of the criminal procedure by the bodies conducting the criminal procedure;

b) to more actively participate in the criminal procedure by having the right to be present during procedural actions and by proposing that additional actions be taken;

c) to file a claim for damages in the criminal procedure, which will allow victims to receive, even during the criminal procedure, compensation for the damages caused by the criminal offence.

### Misdemeanour procedure

In addition to criminal offences, the Croatian legal order also recognises another large group of offences – misdemeanours. Misdemeanours are considered to be less serious violations than criminal offences, so the sanctions prescribed for a misdemeanour are less severe than those that are provided for possible perpetrators of criminal offences. This is also reflected in the misdemeanour procedure, which is simpler and faster than a criminal procedure. For some illicit

conduct, it is sometimes difficult to determine whether they are misdemeanours or criminal offences. This assessment depends on a range of specific circumstances in each individual case. In the Croatian legal system, this problem is particularly prominent when it comes to domestic violence, which, in some, less serious cases, is considered a misdemeanour, while more serious forms of domestic violence are prosecuted as criminal offences.

### The rights of victims in the misdemeanour procedure

Regardless of whether a misdemeanour or criminal procedure is conducted, the rights of victims are basically the same. In practice, it is realistic to expect that the victims of misdemeanours will more frequently be faced with difficulties in exercising their rights. These difficulties are the result of the fact that the Misdemeanour Act does not specifically regulate the rights of victims. However, the lack of explicit legal provisions is not an obstacle for the victims to exercise their rights, either through the appropriate application of the Criminal Procedure Act, or through the direct application of the provisions of the Victim's Rights Directive. Where victims of domestic violence are concerned, such difficulties should not occur in practice since the Act on Protection against Family Violence explicitly guarantees a broad list of rights to victims of this type of misdemeanour.

## *4. Training Materials*

### *4.1. Training Materials for Civil Society Organizations Representing Persons with Disabilities*

#### *4.1.1. Introduction in Relation to Associations (NGOs) for Persons with Disabilities*

- Persons with disabilities (hereinafter PDs) rarely decide to report criminal offences and misdemeanours committed against them. It would be reasonable to expect more willingness if PDs who have been victims of criminal offences and misdemeanours were informed that there is a system of support for victims of criminal offences and misdemeanours, and that those victims have rights in the procedure whose aim is to make the experience of participating in the criminal procedure less traumatic for the victims. To achieve this goal, some basic information that is easily understood about the criminal procedure, the status and rights of the victims, and the services provided by the support system that the victims can use must be made available to associations for PDs. Based on this information, associations for PDs could carry out a broad information campaign for their beneficiaries about their rights as victims of criminal offences and misdemeanours.

- There are some problems in establishing appropriate communication between victims who are PDs and the staff of competent authorities. Associations for PDs could help remove these obstacles. Their knowledge of the specific characteristics of individual categories of disability could be useful in informing the victims, ensuring that the provided information

has been understood, securing mobility and other necessary adjustments for PDs, and referring them to the support and assistance system.

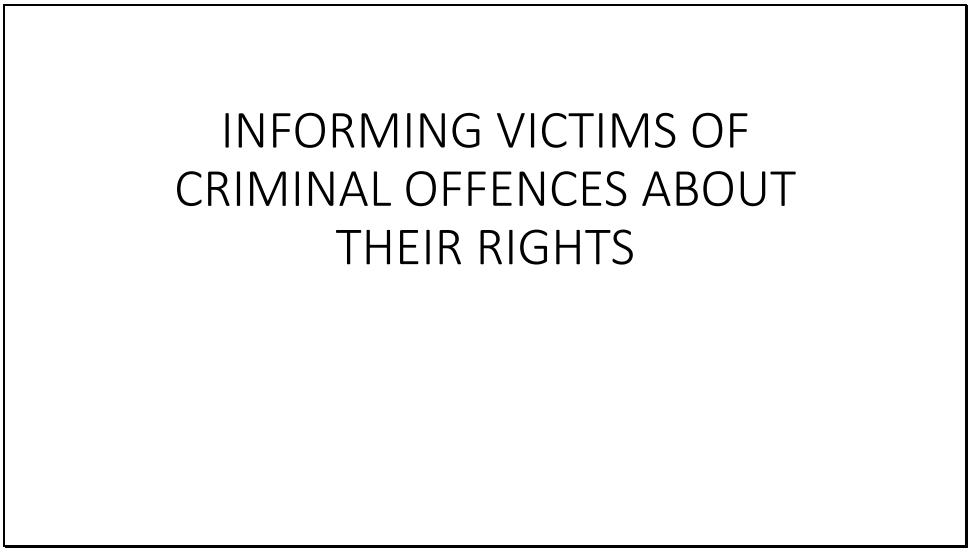
- Associations for PDs could play a significant role in the training of police officers and justice system personnel about how to approach PDs, and about how far it is necessary and desirable to adjust one's way of acting regarding the capacity and needs of PDs.

- Since there is insufficient awareness of the specific needs of victims who are PDs within the current support system, this awareness must be raised. Associations for PDs could play an important role by establishing programmatic connections with civil society organisations gathered in the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences.

- Associations for PDs could be more actively engaged in the individual assessment process that is carried out for each victim of a criminal offence and secure adequate protection for the victims with their recommendations. At the same time, their representatives could assume the more active role of person of trust for victims who are PDs in the criminal and misdemeanour procedures.

### *4.1.2. Power Point Presentation*

Slide 1




The implementation of Directive 2012/29/EU establishing minimum standards on the rights support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA created the regulatory basis in the Croatian legislation for enabling the victims of crime to exercise the right to information, and, consequently, the preconditions for the informed participation of victims in the criminal procedure. The task, primarily of government bodies, but also of other institutions and organisations that come into contact with victims of crime and misdemeanours, in addition to adequately approaching the victims, is to give them high-quality and easily understandable information about their rights and the opportunities to obtain assistance and support, both in terms of participation in the criminal procedure, as well as in terms of mitigating the consequences of the criminal offence. Encouraged by research on the experiences of victims regarding obtaining information, but also experiences about the difficulties faced by government authority staff, the need arose to exchange views with the aim of creating better practices in this area.

Slide 2

## RESEARCH

- STUDYING THE CAPACITY OF ASSOCIATIONS FOR PDs TO ASSUME A GREATER ROLE IN SUPPORTING VICTIMS AMONG THEIR BENEFICIARIES, AND IN COOPERATING WITH BODIES, INSTITUTIONS AND ORGANISATIONS THAT ARE PART OF THE CRIMINAL AND MISDEMEANOUR JUSTICE SYSTEM
- A QUESTIONNAIRE WAS SENT TO 12 ASSOCIATIONS FOR PDs AT NATIONAL LEVEL: 8 ANSWERS WERE RECEIVED

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## RESULTS

- THE ASSOCIATIONS HAVE GOOD CAPACITY TO REPRESENT AND PROVIDE SERVICES TO THEIR BENEFICIARIES, BUT TO DATE THEY HAVE NOT DEALT TO ANY GREAT EXTENT WITH ISSUES RELATED TO THE RIGHTS OF THEIR BENEFICIARIES AS VICTIMS OF CRIMINAL OR MISDEMEANOUR OFFENCES
- ASSOCIATIONS INDICATED WILLINGNESS TO EXPAND THEIR ACTIVITIES TO THIS AREA BY PROVIDING THE FOLLOWING SERVICES:
  - 1. **INFORMING BENEFICIARIES ABOUT THEIR RIGHTS AND EXISTING SUPPORT**
  - 2. REFERRING BENEFICIARIES TO THE SUPPORT SYSTEM, THAT IS, TO OTHER ORGANISATIONS SPECIALISED IN PROVIDING ASSISTANCE AND SUPPORT TO VICTIMS OF CRIMINAL AND MISDEMEANOUR OFFENCES
  - 3. ASSISTANCE IN SECURING KEY ADJUSTMENTS: ASSISTANCE IN SECURING MOBILITY AND HELP IN COMMUNICATION
  - 4. PERSON OF TRUST (TO A LESSER EXTENT)

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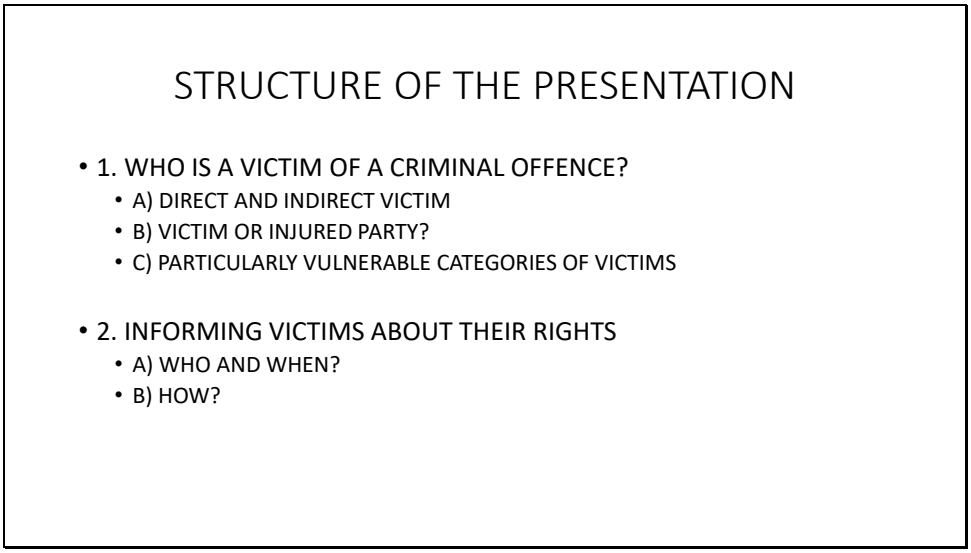


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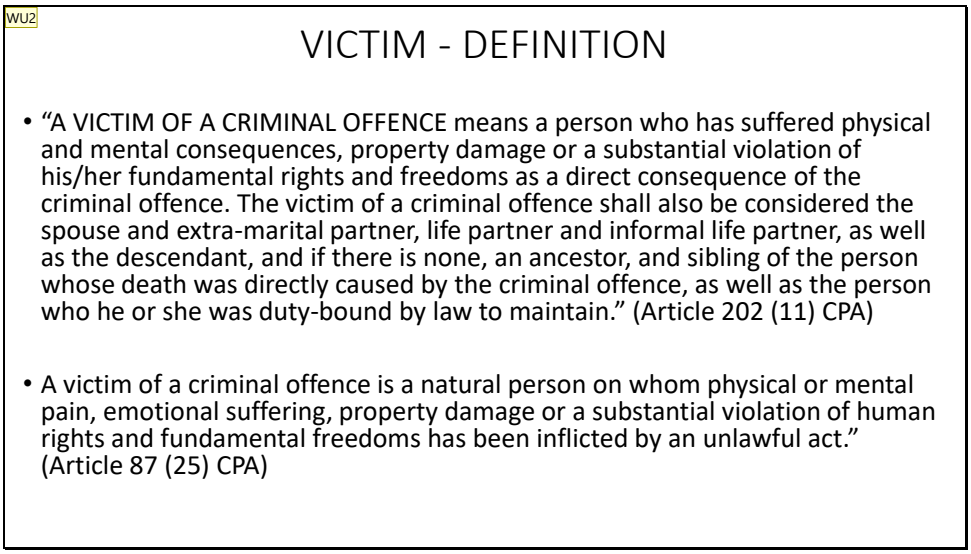


In the beginning, it might be useful to remind ourselves of the basic terms: who the law defines as a victim, and what the characteristics of particular categories of victims are. From a victimology point of view "the victim of a criminal offence in a narrow (legal) sense is any natural person whose property or right was directly threatened, violated or destroyed by a criminal offence". To draw up this presentation, we used the text of the most recent amendments to the Criminal Procedure Act, with the amendments of July 2017 (Official Gazette no. 152/08, 76/09, 80/11, 121/11 – consolidated text, 91/12 – Constitutional Court RC Decision, 143/12, 56/13, 145/13, 152/14, 70/17).

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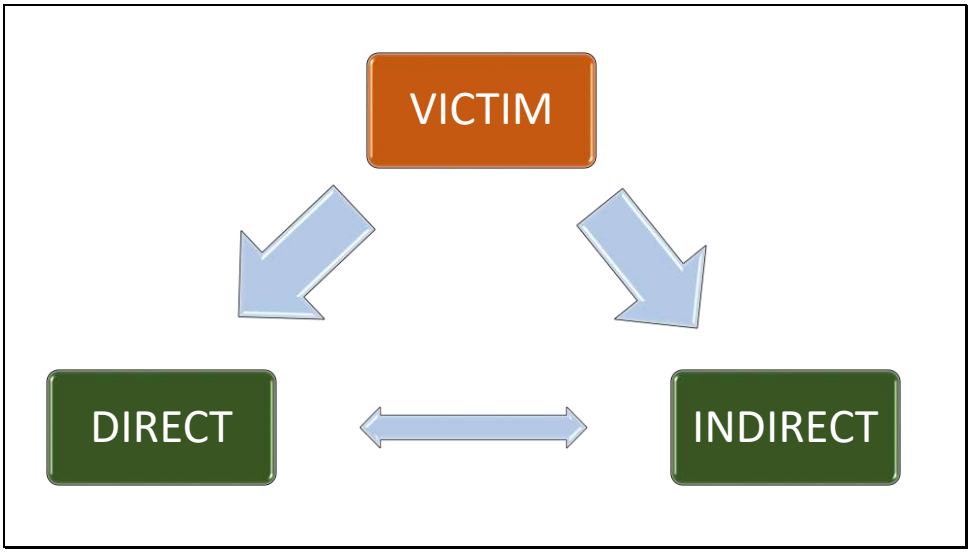


Since a Directive sets higher standards, its application in defining a victim has not been standardised in all EU Member States. Thus, for example, some Member States in their legislation define the concept of ”victim” narrowly and thus exclude ”indirect” victims, such as family members. Some Member States have not defined this term at all. According to our legislation, the right to receive support and protection is granted to the family members of all victims regardless of whether the commission of the criminal offence caused the death of the direct victim. The protection of family members is also clearly seen through the right to the confidentiality of data whose disclosure would threaten the safety and security of persons close to the victim (APFV).

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## VICTIM - INJURED PARTY

- An injured party is a victim of a criminal offence and a legal entity against whom the criminal offence was committed and who participates in the proceedings in the capacity of injured party” (Article 202 (12) CPA)
- “The injured party as a plaintiff is a plaintiff who has assumed prosecution from a state attorney who failed to initiate, or abandoned, criminal prosecution” (Article 202 (15) CPA)
- The Misdemeanour Act recognises only the concept of injured party, but not the notion of victim. What does this mean?

Since the new CPA makes a distinction between a victim and an injured party, it is important also to remind ourselves of the definition of an injured party. One of the rights of a victim is to be allowed to participate in the criminal proceedings as an injured party, a right which is often unclear, not only to the victims, but also to police officers and justice officials. The difference between these two concepts is based on the combination of substantive-formal criteria. In substantive terms, the victim is a natural person against whom a criminal offence was committed and to whom, on the basis of this fact, particular rights have been guaranteed. The victim has these rights, regardless of whether he/she wishes or not to participate in criminal proceedings and promote his/her own procedural interests. The victim who wishes to actively participate in criminal proceedings in order to promote his/her own interests becomes at the same time an injured party. As the injured party, he/she is eligible to some additional procedural rights – for example, the right to file proposals to the state attorney during the investigation  for the investigation to be supplemented by other proposals with the aim of exercising the rights prescribed by law (Art. 221 CPA), the right to participate at the session of the indictment panel (Art. 348.2 CPA), at the preparatory hearing (Art. 372.1 CPA) and at the trial (Art. 383.1 CPA), the right to actively participate in the presentation of evidence at the trial (for instance, with regard to the examination of witnesses at the trial (Art. 420.1 CPA)), and the (limited) right to lodge an appeal (Art. 464.4 CPA). All these rights may be exercised only by the victim that has assumed the role of injured party in the criminal proceedings. In addition to this substantive difference, in order to clearly and formally differentiate between the concept of victim and of injured party, the legal provisions on the registration of a victim in the role of injured party in criminal proceedings have been additionally elaborated. Thus, for the victim to be able to participate in the criminal proceedings in the role of injured party, he/she must fulfil an additional positive procedural condition – register for such participation. In addition to the above, we have to mention another important point – the role of injured party can be assumed not only by a victim (who is a natural person) but also by a legal entity against which the criminal offence was committed.

The Misdemeanour Act (OG, nos. 107/07, 39/13, 157/13, 110/15, 70/17) does not recognise the concept of victim, but only the concept of injured party. In the same way, this Act does not regulate the specific rights of the victim of misdemeanours. However, this does not mean that victims of misdemeanours do not possess the same rights as those of victims of criminal offences. Victims of misdemeanours have been equalised in terms of their rights with victims of criminal offences, provided that these are misdemeanour proceedings which, in the meaning of the case law of the European Court of Human Rights, must be considered as criminal proceedings. Where such misdemeanour proceedings are concerned, victims must be able to exercise rights equal to those of victims of criminal offences. This can be derived not only from the appropriate application of the CPA in misdemeanour proceedings, but also from the possibility of the direct application of the provisions of the Directive on the Rights of Victims in the Croatian legal system.

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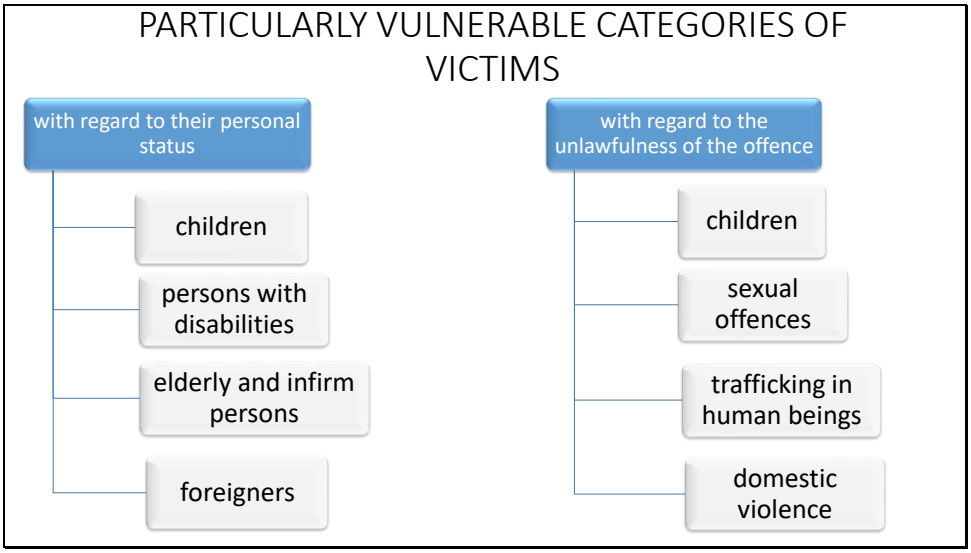


In addition, it is important to emphasise that, according to our legislation, some categories of victims have special status, not only when it comes to protection granted by the provided criminal provisions against the perpetrators of criminal offences committed against them, but also when it comes to their different status in the criminal procedure, which can be reflected in the rights of these victims, which we will further discuss later on.

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Title V of the CPA ”Victim, injured party and private plaintiff” (Articles 43-63), decidedly determines who has the duty to inform the victim and/or the injured party about their rights, when to do so, and how to do so. Thus, the CPA lays down (Article 43(4)) that police officers, state attorneys, investigators, and judges must inform the victims of their rights upon the first contact

with the victims, or when taking the first action in which the victims participate (regardless of whether the victims were previously informed of their rights).

Research shows that, given that the Act always obliges different authorities to provide comprehensive information on the victim's rights, it is impossible for victims to understand all the rights guaranteed by the Act at one time. Therefore, it is important that the body informing the victims of their rights, in addition to fulfilling the legal obligation of informing them of all their rights, pays special attention to those rights that are most relevant at the time of providing the information. Thus, for example, research indicates that victims have the most important sense of security during their first contact with the police, so police officers must pay special attention to informing the victims about the right to be protected from intimidation and retaliation and the measures police officers can take to enable the victims to actually exercise this right.

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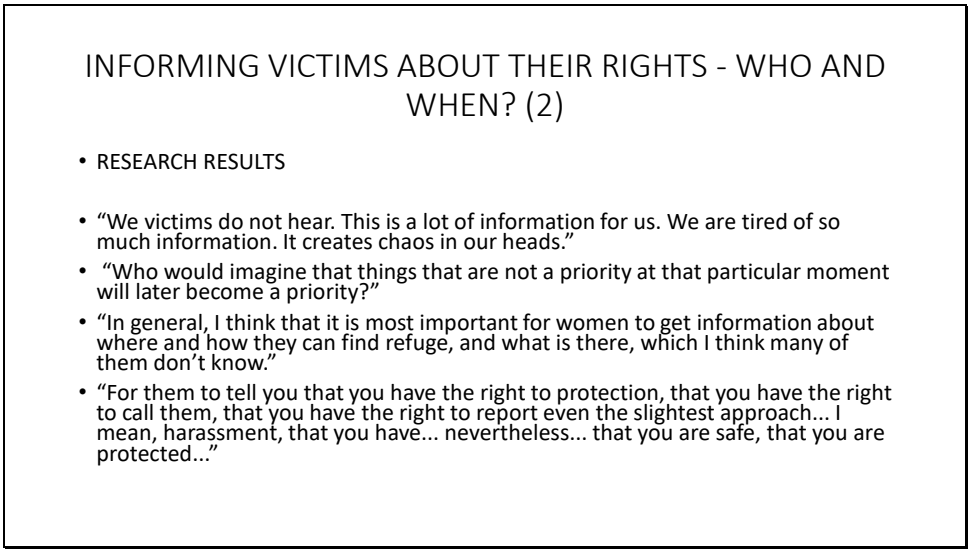

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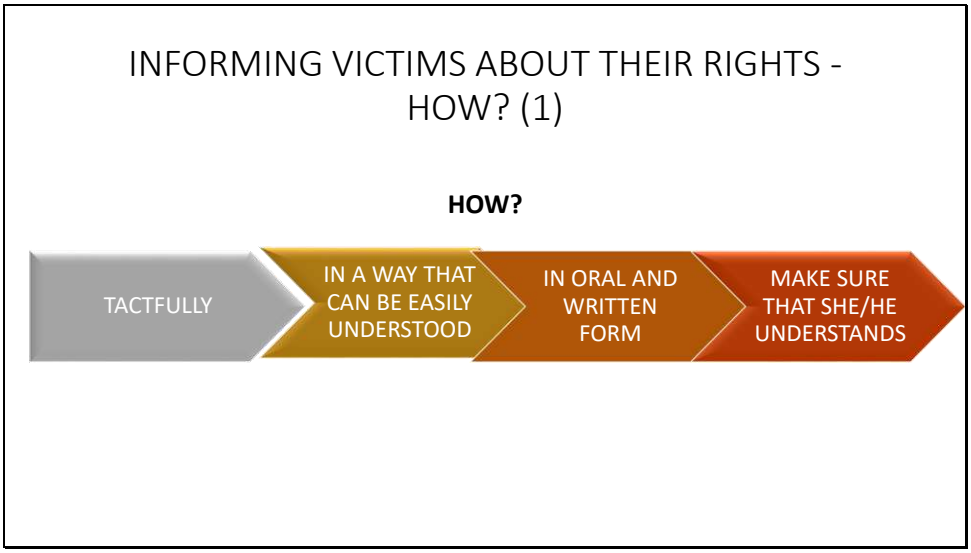


The law lays down that the process of providing information on the rights of victims must be carried out:

- tactfully: considering the current state of the victim (health, level of trauma, age or another state due to which he or she is not capable of following, understanding and/or confirming understanding of the given information);

- in a way that is easy to understand: strict legal terminology should be avoided, rights must be explained by using everyday vocabulary adapted to each individual victim, and an interpreter should be used (when dealing with foreigners, deaf persons, etc.);

- in oral and written form: oral information is mandatory, but also in written form (a large number of victims are in a state of shock and trauma caused by the criminal offence - they must be advised to read their rights in peace and to be free to address the person who informed them for additional clarification);

- making sure the victims understand their rights: it is not sufficient for the victims to say that they understand; this must be checked in an appropriate way, adapted to each individual victim, to be sure that she/he really understands.

We have to be aware that all the processes carried out to inform victims contribute to creating for the victim a feeling of safety, protection and trust (not only in a person, but also in the system), and that the exercise of the rights of victims is one of the indicators of their victimisation, and of the possible risks they face from the perpetrator or other persons, which are factors indicating that an individual needs assessment for special security measures, which all the bodies must carry out based on the Ordinance on the manner of conducting an individual needs assessment of victims (Official Gazette, no. 106/17).

Although the law prescribes the manner of informing victims about their rights, it is clear that issues arise in implementing this process.

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## INFORMING VICTIMS ABOUT THEIR RIGHTS - HOW? (2)

- TACTFULLY

  - considering the current state of the victim (health, level of trauma, age or other condition due to which she/he is not able to follow, understand and/or confirm understanding of the given information)

- RESEARCH RESULTS

  - one respondent said that she did not remember any information the police had given her due to her condition at that time since the police talked to her in the hospital where she had been treated for injuries inflicted by her husband.

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## INFORMING VICTIMS ABOUT THEIR RIGHTS - HOW? (3)

- IN A WAY THAT CAN BE EASILY UNDERSTOOD
  - strict legal terminology should be avoided, rights must be explained by using everyday vocabulary adapted to each individual victim, and an interpreter should be used (when dealing with foreigners, deaf persons, etc.).

- RESEARCH RESULTS
  - "They tried to explain it, although some points were unclear to them, too..."
  - "They were kind, I mean, they wanted to explain everything orally, but in the end, they left me this piece of paper."
  - One respondent said that she had not received any information from the state attorney, or from the judge, and that she had the impression that they just did not want to do their job.

Victims will probably be overwhelmed by "information overload" about rights during their first contact with the representatives of government bodies. We know from experience that the same is true for representatives of government bodies who, in addition to many duties related to the procedure in a particular case, often take a superficial approach in informing the victims, as we have seen from research, giving the victim written notification (instructing them to read and sign if they understand), or by reading them their rights without explaining them, or by giving inadequate and insufficient explanation. If we do not want victims to feel alone, insecure and frightened by this "information overload", police officers, state attorneys, investigators and judges

must make additional efforts to ensure that victims are promptly and fully aware of all the rights guaranteed by law, and that they understand these rights and can decide whether they want to benefit from them or not.

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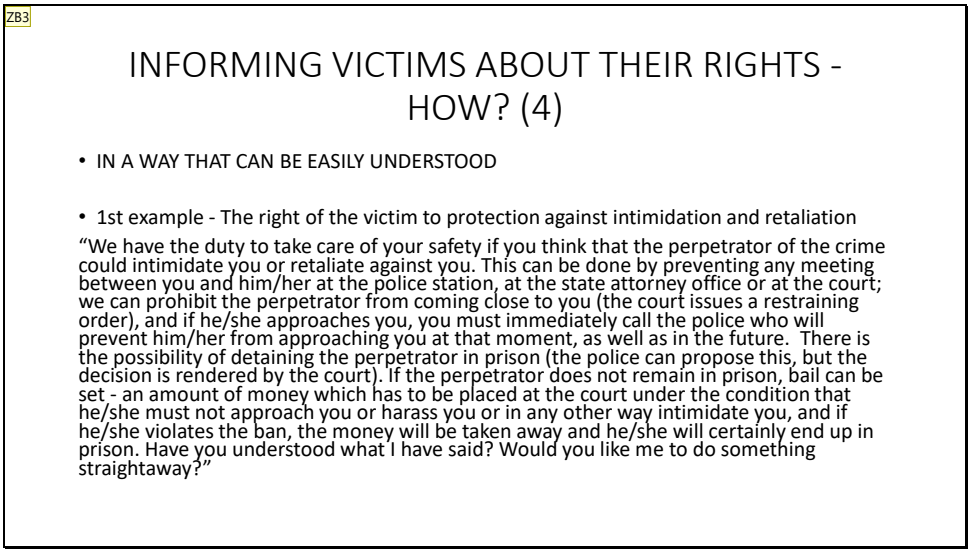


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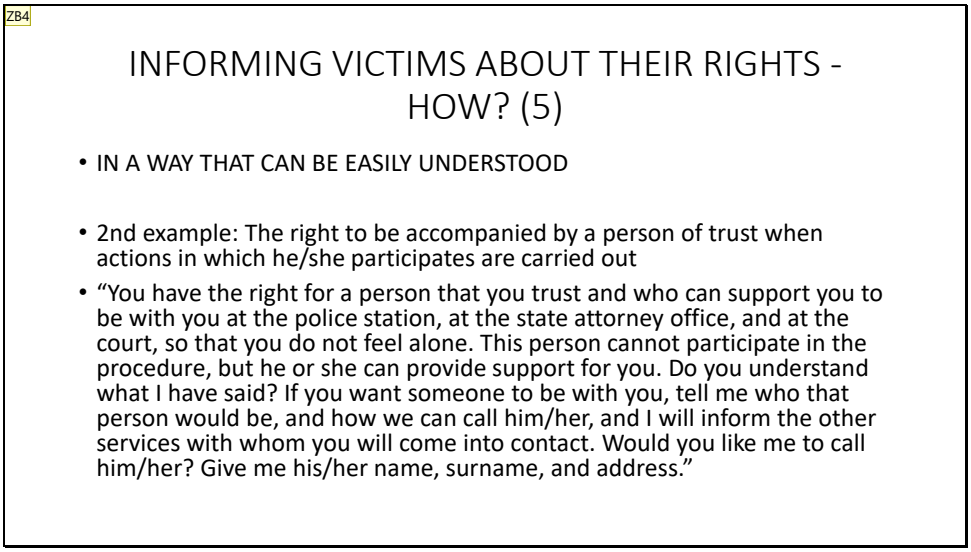

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## INFORMING VICTIMS ABOUT THEIR RIGHTS - HOW? (6)

- IN ORAL AND WRITTEN FORM
  - oral information is mandatory, but it should also be given in written form (a large number of victims are in a state of shock and trauma caused by the criminal offence - they must be advised to read their rights in peace and to feel free to address the person who informed them for additional clarification).
- MAKE SURE THAT SHE/HE UNDERSTOOD
  - it is not sufficient for the victim to say that she/he understands; this must be checked in an appropriate manner, adapted to each individual victim, so as to be sure that she/he really understands.

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## THE RESULTS OF SUCH AN APPROACH TO INFORMING VICTIMS ABOUT THEIR RIGHTS

- it contributes to creating for the victim a feeling of safety, protection and trust (not only in a person, but also in the system)
- cooperation of the victim as the key to the success of the criminal procedure

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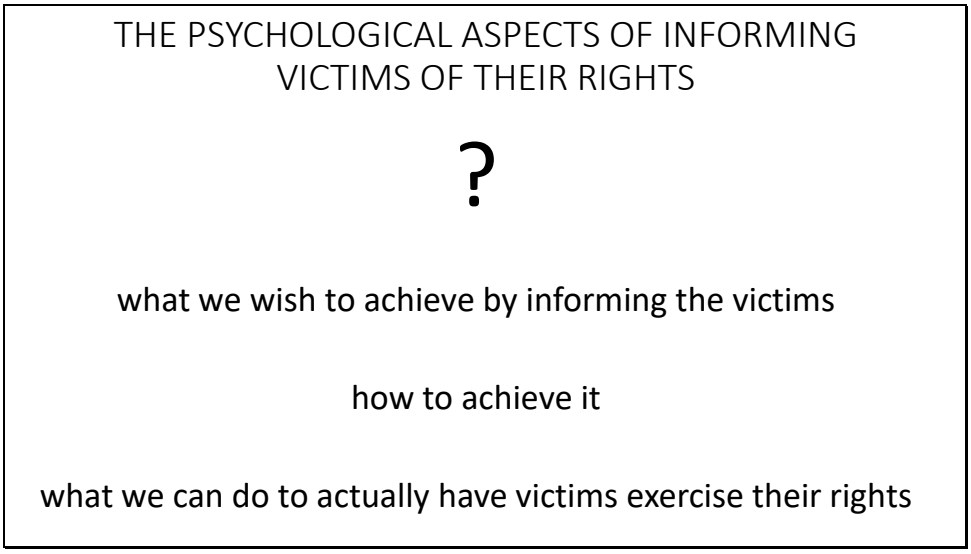


Two things are important in this process: in addition to the substantive aspects of informing victims of their rights, the psychological aspect is also very important. This means that every person – member of a government body, who is in charge of informing victims about their rights, must be sufficiently trained, both in terms of knowledge and in terms of skills. To this end, it is important to be aware of the aim of the process of providing information, and what it seeks to achieve (is it to meet the legally prescribed form or is it important for the victim to gain trust and feel safe?). The ultimate goal of the police, the state attorney, and the court is the successful completion of the procedure, that is, the protection of the victim through the efficient prosecution and conviction of the perpetrator. Awareness that a cooperative victim, as the subject of the procedure, is one of the factors of the success of the procedure, is essential for finding ways of clearly informing victims about their rights and about the path towards exercising these rights. How do we achieve this? Primarily by approaching each victim individually (we will talk about this in the following presentation). Then, by having good knowledge of the legal definitions of the rights of victims, so that the information on the possibility of exercising these rights can be of the highest quality and can be as comprehensive and purposeful as possible The ability to put oneself in the position of the victim is especially important, since victims at that time need someone to carefully listen to them, to be patient, and to set aside enough time for them. Sometimes, even if an officer does not fully know how victims can exercise their rights, it is enough that that the officer knows the persons, institutions, or civil society organisations to which he or she can refer victims for more accurate information, assistance, or support

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QUESTIONS
COMMENTS
RECOMMENDATIONS

### *4.2. Training Materials for Police Officers and for Criminal or Misdemeanour Justice Professionals*

#### *4.2.1. Introduction in Relation to institutions:*

- When persons with disabilities (hereinafter: PDs) who are victims of criminal offences or misdemeanours decide to report a criminal offence or misdemeanour committed against them to the competent institutions, or when this is done by another person or organisation, PDs face a number of difficulties which makes their participation in the procedures of criminal or misdemeanour justice much more burdensome than similar participation would be for the general population. Work must be done on removing the elements that make this kind of experience comparatively more difficult:

5. work on establishing mechanisms to allow for the identification of victims of criminal offences who are PDs;

6. work on removing obstacles that prevent or impede the physical access of PDs to police authorities and criminal or misdemeanour justice authorities;

7. work on removing obstacles that hinder the possibility of appropriate communication between PDs on the one hand, and police authorities and criminal or misdemeanour justice authorities on the other; associations for PDs could help remove these obstacles. Their knowledge, considering the specific characteristics of individual categories of disability, could be useful in informing the victims, ensuring that the provided information has been understood, ensuring mobility and other necessary adjustments for PDs, and referring them to the support and assistance system. These associations could also play a significant role by providing a person of trust for the PD, and by participating in the individual needs assessment procedure for victims of criminal offences who are PDs by giving recommendations.

8. awareness about ways to approach PDs, and to what extent it is necessary and desirable to adjust one's way of acting in relation to the capacities and needs of PDs is not sufficiently developed among police officers and criminal and misdemeanour justice personnel. Therefore, systematic training on the specific characteristics of PDs and how to adjust the procedure to them must be carried out among the staff of the competent authorities. An important role in conducting training could be played by associations for PDs, which should become actively involved in informing and training the stakeholders of the justice system about how to communicate with persons with disabilities, and on the specific situations of, and the necessary adjustments for, persons with different types of disabilities.

### *4.2.2. Power Point Presentations*

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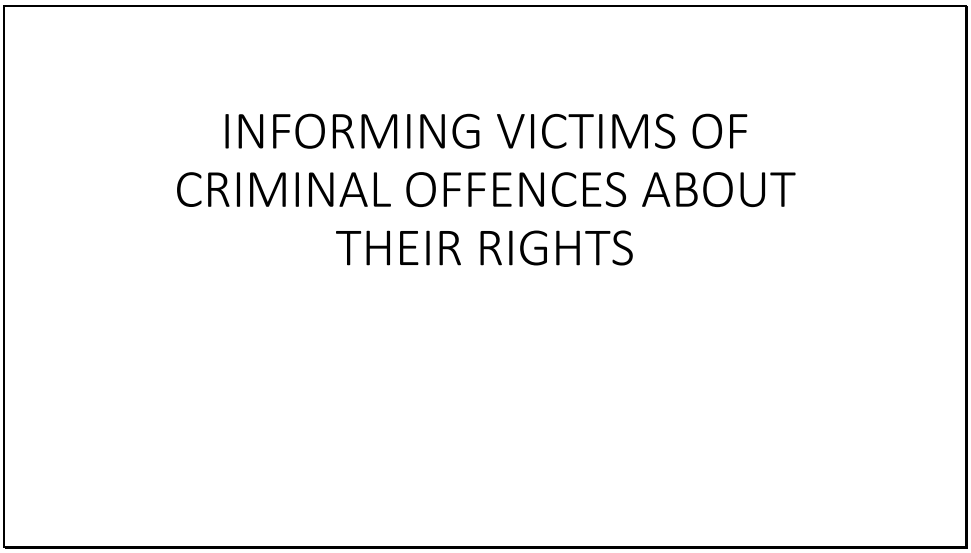


The implementation of Directive 2012/29/EU establishing minimum standards on the rights support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA created the regulatory basis in the Croatian legislation for enabling the victims of crime to exercise the right to information, and, consequently, the preconditions for the informed participation of victims in the criminal procedure. The task, primarily of government bodies, but also of other institutions and organisations that come into contact with victims of crime and misdemeanours, in addition to adequately approaching the victims, is to give them high-quality and easily understandable information about their rights and the opportunities to obtain assistance and support, both in terms of participation in the criminal procedure, as well as in terms of mitigating the consequences of the criminal offence. Encouraged by research on the experiences of victims regarding obtaining information, but also experiences about the difficulties faced by government authority staff, the need arose to exchange views with the aim of creating better practices in this area.

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Even though we have already prepared this presentation, we would like to hear your expectations about it. What would you like to hear on this topic, and what would you like to discuss?

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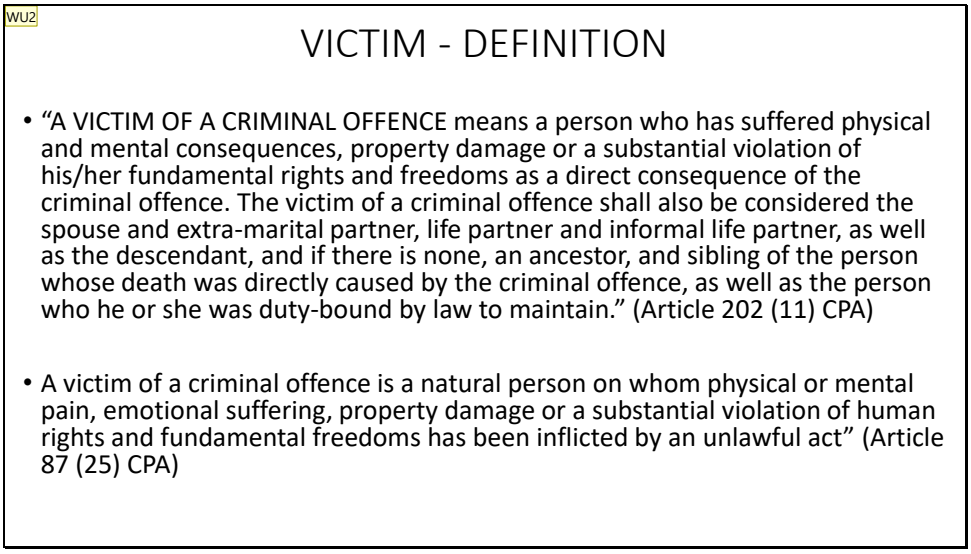


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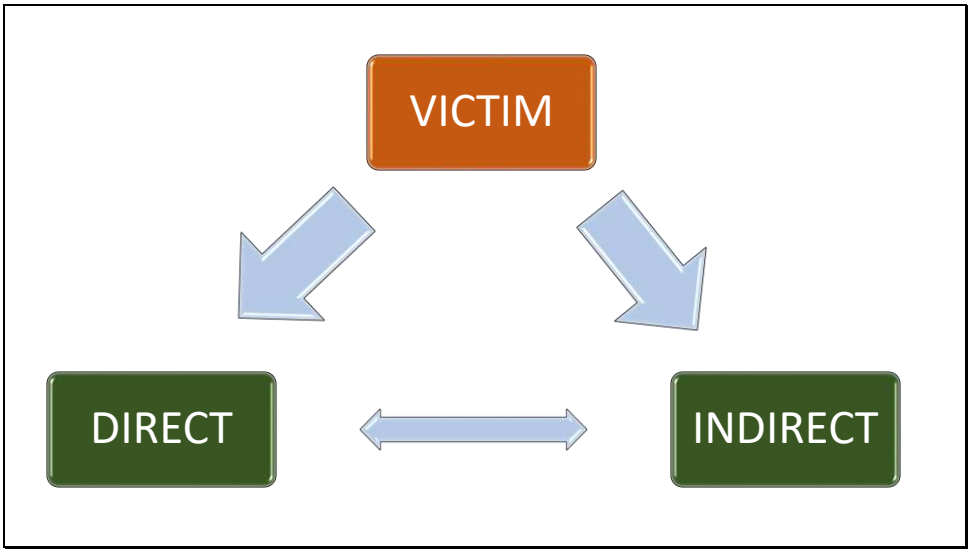


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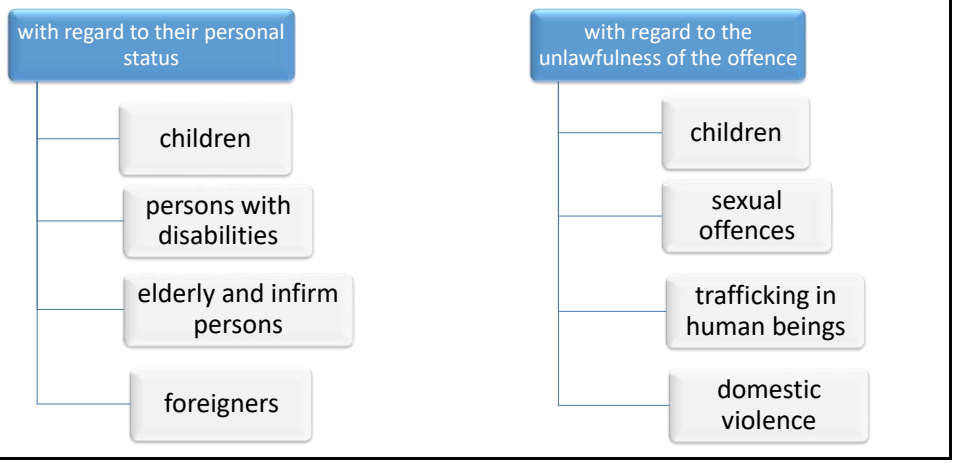
## PARTICULARLY VULNERABLE CATEGORIES OF VICTIMS

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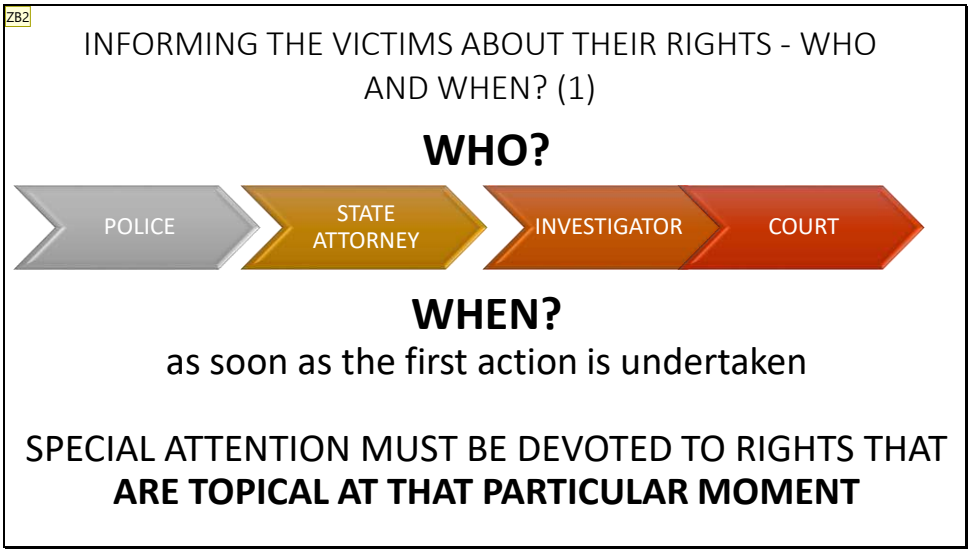


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## INFORMING THE VICTIMS OF THEIR RIGHTS - WHO AND WHEN? (2)

- RESEARCH RESULTS

- "We victims do not hear. This is a lot of information for us. We are tired of so much information. It creates chaos in our heads."
- "Who would imagine that things that are not a priority at that particular moment will later become a priority?"
- "In general, I think that it is most important for women to get information about where and how they can find refuge, and what is there, which I think many of them don't know."
- "For them to tell you that you have the right to protection, that you have the right to call them, that you have the right to report even the slightest approach... I mean, harassment, that you have... nevertheless... that you are safe, that you are protected..."

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## INFORMING VICTIMS ABOUT THEIR RIGHTS - HOW? (1)

**HOW?**

The law lays down that the process of providing information on the rights of victims must be carried out:

- tactfully: considering the current state of the victim (health, level of trauma, age or another state due to which he or she is not capable of following, understanding and/or confirming understanding of the given information);

- in a way that is easy to understand: strict legal terminology should be avoided, rights must be explained by using everyday vocabulary adapted to each individual victim, and an interpreter should be used (when dealing with foreigners, deaf persons, etc.);

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We have to be aware that all the processes carried out to inform victims contribute to creating for the victim a feeling of safety, protection and trust (not only in a person, but also in the system), and that the exercise of the rights of victims is one of the indicators of their victimisation, and of the possible risks they face from the perpetrator or other persons, which are factors indicating that an individual needs assessment for special security measures, which all the bodies must carry out based on the Ordinance on the manner of conducting an individual needs assessment of victims (Official Gazette, no. 106/17).

Although the law prescribes the manner of informing victims about their rights, it is clear that issues arise in implementing this process.

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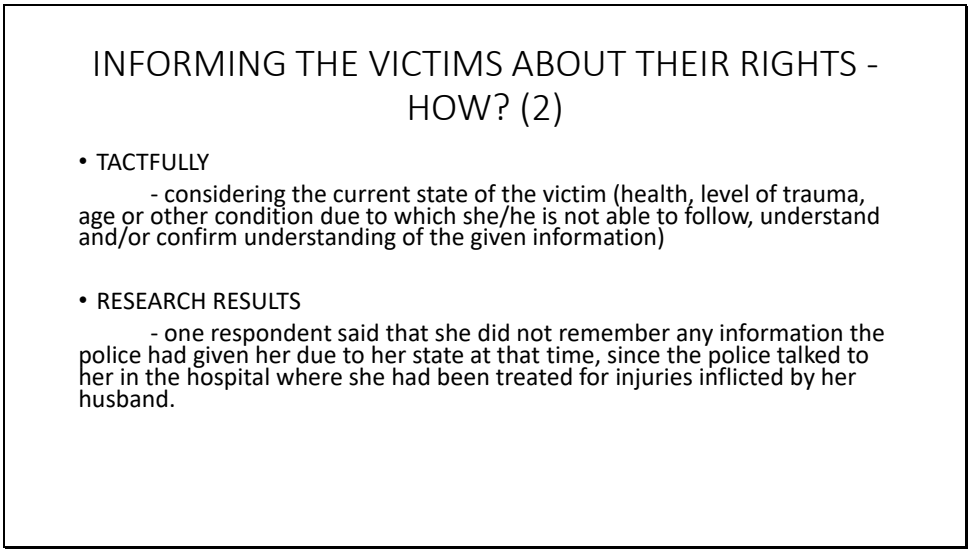

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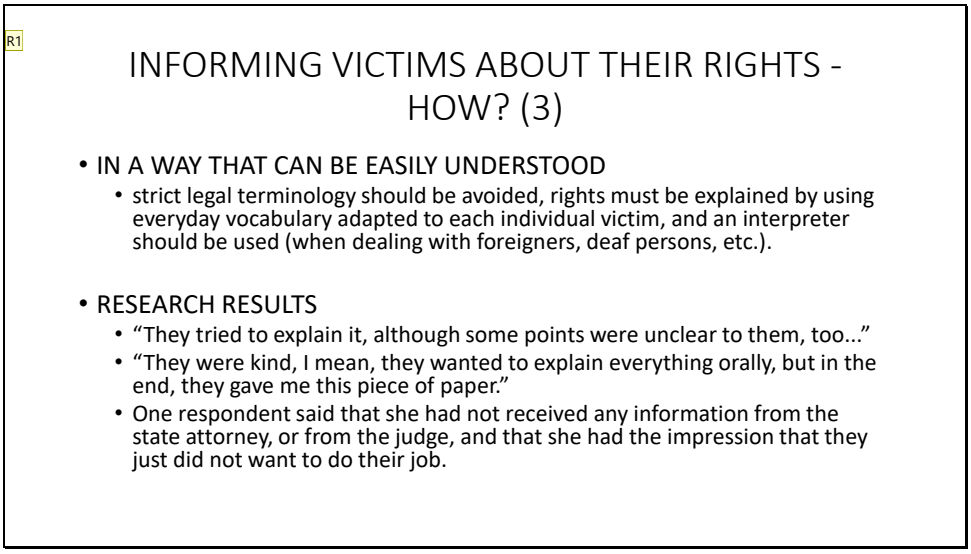


Victims will probably be overwhelmed by "information overload" about rights during their first contact with the representatives of government bodies. We know from experience that the same is true for representatives of government bodies who, in addition to many duties related to the procedure in a particular case, often take a superficial approach in informing the victims, as we have seen from research, giving the victim written notification (instructing them to read and sign if they understand), or by reading them their rights without explaining them, or by giving inadequate and insufficient explanation. If we do not want victims to feel alone, insecure and frightened by this "information overload", police officers, state attorneys, investigators and judges must make additional efforts to ensure that victims are promptly and fully aware of all the rights guaranteed by law, and that they understand these rights and can decide whether they want to benefit from them or not.

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ZB3

## INFORMING THE VICTIMS ABOUT THEIR RIGHTS - HOW? (4)

- IN A WAY THAT CAN BE EASILY UNDERSTOOD
- 1st example - The right of the victim to protection against intimidation and retaliation

"We have the duty to take care of your safety if you think that the perpetrator of the crime could intimidate you or retaliate against you. This can be done by preventing any meeting between you and him/her at the police station, at the state attorney office or at the court; we can prohibit the perpetrator from coming close to you (the court issues a restraining order), and if he/she approaches you, you must immediately call the police who will prevent him/her from approaching you at that moment, as well as in the future. There is the possibility of detaining the perpetrator in prison (the police can propose this, but the decision is rendered by the court). If the perpetrator does not remain in prison, bail can be set - an amount of money which has to be placed at the court under the condition that he/she must not approach you or harass you or in any other way intimidate you, and if he/she violates the ban, the money will be taken away and he/she will certainly end up in prison. Have you understood what I have said? Would you like me to do something straightaway?"

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ZB4

## INFORMING THE VICTIMS ABOUT THEIR RIGHTS - HOW? (5)

- IN A WAY THAT CAN BE EASILY UNDERSTOOD
- 2nd example: The right to be accompanied by a person of trust when actions in which the victim takes part are carried out;
- "You have the right for a person that you trust and who can support you to be with you at the police station, at the state attorney office, and at the court, so that you do not feel alone. This person cannot participate in the procedure, but he or she can provide support for you. Do you understand what I have said? If you want someone to be with you, tell me who that person would be, and how we can call him/her, and I will inform the other services with whom you will come into contact. Would you like me to call him/her? Give me his/her name, surname, and address."

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## INFORMING VICTIMS ABOUT THEIR RIGHTS - HOW? (6)

- IN ORAL AND WRITTEN FORM
  - oral information is mandatory, but it should also be given in written form (a large number of victims are in a state of shock and trauma caused by the criminal offence - they must be advised to read their rights in peace and to feel free to address the person who informed them for additional clarification).
- MAKE SURE THAT SHE/HE UNDERSTANDS
  - it is not sufficient for the victim to say that she/he understands; this must be checked in an appropriate manner, adapted to each individual victim, so as to be sure that she/he really understands

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## THE RESULTS OF SUCH AN APPROACH TO INFORMING VICTIMS ABOUT THEIR RIGHTS

- this contributes to creating for the victim a feeling of safety, protection and trust (not only in a person, but also in the system)
- the cooperation of the victim is the key to the success of the criminal procedure

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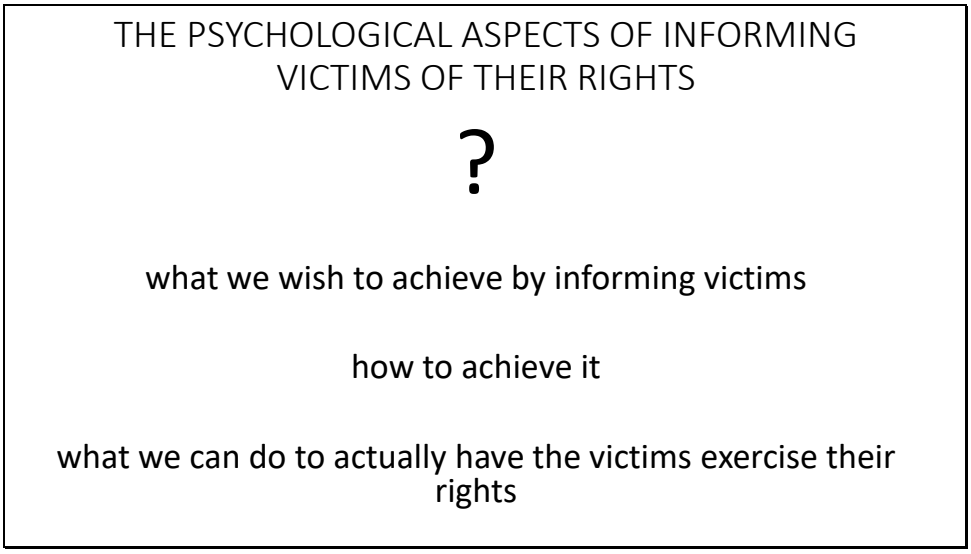


Two things are important in this process: in addition to the substantive aspects of informing victims of their rights, the psychological aspect is also very important. This means that every person – member of a government body, who is in charge of informing victims about their rights, must be sufficiently trained, both in terms of knowledge and in terms of skills. To this end, it is important to be aware of the aim of the process of providing information, and what it seeks to achieve (is it to meet the legally prescribed form or is it important for the victim to gain trust and feel safe?). The ultimate goal of the police, the state attorney, and the court is the successful completion of the procedure, that is, the protection of the victim through the efficient prosecution and conviction of the perpetrator. Awareness that a cooperative victim, as the subject of the procedure, is one of the factors of the success of the procedure, is essential for finding ways of clearly informing victims about their rights and about the path towards exercising these rights. How do we achieve this? Primarily by approaching each victim individually (we will talk about this in the following presentation). Then, by having good knowledge of the legal definitions of the rights of victims, so that the information on the possibility of exercising these rights can be of the highest quality and can be as comprehensive and purposeful as possible The ability to put oneself in the position of the victim is especially important, since victims at that time need someone to carefully listen to them, to be patient, and to set aside enough time for them. Sometimes, even if an officer does not fully know how victims can exercise their rights, it is enough that that the officer knows the persons, institutions, or civil society organisations to which he or she can refer victims for more accurate information, assistance, or support.

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QUESTIONS
COMMENTS
RECOMMENDATIONS

# *DRUGI DEL / PART B*

## *I. PROJEKTNI REZULTATI ZA SLOVENIJU*

## *1. Raziskovalno poročilo s priporočili*

### *1.1. O projektu*

Projekt ARVID – Izboljšanje dostopa do pravic v skladu z Direktivo o žrtvah za osebe z ovirami financira program za pravosodje Evropske unije, izvaja pa se na Hrvaškem in v Sloveniji. Koordinira ga Hrvaški pravni center, partnerji pa so: Ministrstvo za pravosodje (Hrvaška), Varuh pravic oseb z ovirami (Hrvaška), Združenje za podporo žrtvam in pričam (Hrvaška), Mirovni inštitut (Slovenija) in Društvo ALTRA (Slovenija). Projekt podpira Varuh človekovih pravic (Slovenija).

Namen projekta je raziskati stopnjo udeležbe oseb z ovirami v kazenskopravnih postopkih v vlogi oškodovanca ter morebitne težave, ki omejujejo njihovo polno udeležbo in uživanje pravic.

Rezultati raziskave bodo uporabljeni za:

(a) razvoj in zagovorništvo izboljšanih podpornih storitev za osebe z ovirami ter vseh potrebnih prilagoditev; in

(b) razvoj znanj ter orodij, ki jih lahko osebe z ovirami, ki so žrtve kaznivih dejanj, in praktiki ter inštitucije, ki jim pomagajo pri popolnem dostopu do pravic, ki jih zagotavlja Direktiva 2012/29/EU (Direktiva o žrtvah), neposredno uporabijo.

Projekt zajema naslednje dejavnosti:

1. Anketa in intervjuji oseb z ovirami ter predstavnikov združenj, ki jih zastopajo, z namenom identifikacije težav, s katerimi se ti posamezniki soočajo pri dostopu do pravic, ki jih imajo kot žrtve kaznivih dejanj, in oblikovanje priporočil o načinih za odpravo ali zmanjšanje teh težav in ovir.

2. Priprava informativnih gradiv za osebe z ovirami o dostopu do njihovih pravic, ki jih imajo kot žrtve kaznivih dejanj.

3. Razvoj izobraževalnih modulov za: (a) strokovne deležnike v pravosodnem sistemu z nalogami, povezanimi s posameznimi vidiki pravic žrtev, ki so osebe z ovirami; (b) predstavnike krovnih organizacij oseb z ovirami in drugih organizacij, ki zagotavljajo podporo osebam z ovirami pri dostopu do njihovih pravic po Direktivi o žrtvah. Izdelani bodo tudi informativni moduli in gradiva, ki jih bodo ustanove varuhov človekovih pravic na Hrvaškem in Sloveniji uporabljale za obveščanje in usposabljanje uradnih deležnikov o pravicah oseb z ovirami v pravosodnem sistemu.

4. Razširjanje in zagovorništvo, vključno z mednarodno konferenco, srečanji z ustreznimi deležniki na Hrvaškem in v Sloveniji, razvoj informativnega gradiva in njihovo razširjanje v sodelujočih državah in v EU.

### *1.2. Raziskovalni cilji*

V obdobju od 1. marca 2020 do 1. maja 2021 je Mirovni inštitut opravil raziskavo in strukturirane intervjuje z osebami z ovirami, ki so žrtve kaznivih dejanj, dve fokusni skupini in prejel štiri izpolnjene vprašalnike društev, ki združujejo in podpirajo osebe z ovirami. Cilj raziskave je bil ugotoviti stopnjo udeležbe oseb z ovirami v vlogi oškodovancev in prič v kazenskih postopkih ter morebitne težave, ki omejujejo njihovo polno udeležbo. Mirovni inštitut je pripravil spletno anketo z namenom proučiti zastopanost oseb z ovirami med oškodovanci kaznivih dejanj in prekrškov.

Anketni vprašalnik je bil uporabljen za vzorčenje anketirancev za drugi del raziskave. Drugi del raziskave so predstavljali polstrukturirani intervjuji z osebami z ovirami, njegov namen pa je bil ugotoviti težave, s katerimi se srečujejo pri dostopu do svojih pravic v vlogi oškodovancev kaznivih dejanj, in pripraviti priporočila za njihovo odpravo. Zaradi manjšega števila intervjuvancev, kot je bilo načrtovano, sta bili kot dodatni vir podatkov o temi raziskave izvedeni dve fokusni skupini s civilnodružbenimi organizacijami, ki zagotavljajo brezplačno pravno pomoč splošnemu prebivalstvu, in z društvi, ki zagotavljajo pomoč in podporo osebam z ovirami.

V skladu s projektom so bili med raziskavo izpeljani tudi intervjuji s predstavniki društev, ki zastopajo osebe z ovirami, tako da jim je bil po elektronski pošti poslan vprašalnik, ki so ga zadevna društva izpolnila in vrnila.

Namen vprašalnika za društva je bil pridobiti dopolnilni vir informacij o položaju oseb z ovirami v kazenskopravnem sistemu in morebitnih ovirah pri njihovem uveljavljanju pravic po Direktivi o žrtvah, hkrati pa tudi kot priložnost za začetek raziskovanja možne vloge teh organizacij pri zagotavljanju podpore oškodovancem.

### *1.3. Raziskovalna metodologija in vzorec*

#### a) Raziskava

Od 1. junija do 31. decembra 2020 je Mirovni inštitut izvedel spletno anketo, katere cilj je bil preučiti stopnjo udeležbe oseb z ovirami kot oškodovancev in prič v kazenskih postopkih.

Raziskava naj bi bila tudi glavni kanal za pridobivanje oseb z ovirami, ki so bile oškodovanci kaznivih dejanj in s katerimi so bili nato opravljeni polstrukturirani intervjuji.

Obrnili smo se na različne civilnodružbene organizacije, ki predstavljajo osebe z ovirami, da bi nam pomagale pri širjenju raziskave med svojimi člani in uporabniki njihovih storitev. Da bi dosegli čim več možnih anketirancev, vključno z osebami z ovirami, ki ne sodelujejo s civilnodružbenimi organizacijami, smo raziskavo razširili z uporabo spletne strani Mirovnega inštituta in družbenih omrežij, vključno s plačanim oglasom na Facebooku. Anketa je bila razširjena tudi na spletni strani Varuha človekovih pravic.

Začetno besedilo raziskave je bilo kliknjeno 709-krat, anketa pa 102-krat. Anketo je izpolnilo 82 anketirancev, 43 jih je potrdilo, da so žrtve kaznivih dejanj. Od teh jih je 68 % navedlo, da so osebe z ovirami. Večina anketirancev je navedla, da imajo kronične bolezni (12 %), 10 % jih je odgovorilo, da imajo psihosocialne ovire, 9 % jih je navedlo, da so gibalno ovirani, 7 % jih je navedlo okvaro vida, 7 % okvaro sluha, 7 % težave v govorni komunikaciji, 6 % poškodbe ali okvare možganov, 5 % težave na spektru avtizma in 2 % da imajo več kot eno vrsto oviranosti.

Večina anketirancev je navedla, da so bili žrtve groženj (17 %); 15 % jih je izjavilo, da so bile žrtve nasilja ali ustrahovanja; 11 % jih je bilo žrtev telesnih poškodb; 10 % žrtev kaznivih dejanj iz sovraštva zaradi osebnih okoliščin; 9 % žrtev goljufij; 9 % žrtev spolnega nasilja; 7 % žrtev nasilja v družini; 6 % žrtev tatvin; 4 % žrtev ropov; 4 % žrtev kaznivih dejanj v prometu; 1 % žrtev trgovine z ljudmi oziroma zasužnjevanja; 1 % žrtev vloma; 7 % jih je izjavilo, da so bili žrtve drugih kaznivih dejanj, navedli pa so izsiljevanje, šikaniranje in obrekovanje.

Na vprašanje, ali so kaznivo dejanje prijavili policiji oziroma državnemu tožilstvu, je 67 % anketirancev odgovorilo pritrdilno, kaznivo dejanje so torej prijavili; 33 % pa tega ni storilo.

Le šest (6) anketirancev je odgovorilo, da želi sodelovati v naši raziskavi s polstrukturiranim intervjujem, vendar so le štirje (4) predložili kontaktne podatke.

Podatki o stopnji udeležbe oseb z ovirami v vlogi oškodovancev in prič v kazenskih postopkih, zbrani z raziskavo, so bili dopolnjeni z informacijami, zbranimi v fokusnih skupinah (glej točko c tega razdelka).

**b) Polstrukturirani intervjuji**

Ker so samo štirje anketiranci privolili v intervju, dejansko pa so se odzvali le trije, smo anketirance za intervjuje rekrutirali preko številnih stikov s civilnodružbenimi organizacijami, ki podpirajo osebe z ovirami, civilnodružbenimi organizacijami, ki podpirajo žrtve nasilja, in civilnodružbenimi organizacijami, ki zagotavljajo pravno pomoč, prek stikov s centri za socialno delo, objavo javnega razpisa za intervjuje na spletnih straneh in straneh družbenih omrežij Mirovnega inštituta in društva Altra, ter prek uporabe strokovnih in osebnih mrež tako slovenskih

projektnih partnerjev kot tudi projektne skupine. Odziv deležnikov, h katerim smo pristopili, je bil večinoma tak, da ne poznajo nobene osebe z ovirami, ki je hkrati tudi žrtev kaznivega dejanja, ali da jim pravila o varstvu osebnih podatkov preprečujejo vzpostavitev takih stikov. Terensko delo ARVID je potekalo ravno med pandemijo covid-19, zato so nam delo precej otežili ukrepi, ki jih je uvedla slovenska vlada za zmanjšanje števila okužb in zajezitev širitve virusa. To je na eni strani pomenilo še težji dostop do naše ciljne populacije, pa tudi precej nižjo splošno stopnjo odziva in vključenost ustreznih deležnikov na tem področju, saj so bili ljudje preprosto preobremenjeni in se z nami niso mogli osebno srečati. Odziv potencialnih intervjuvancev je bil zato precej slabši od prvotno načrtovanega, saj smo načrtovali 20 intervjujev.

Pred izvedbo intervjujev je skupina izpraševalcev opravila dvourno spletno razpravo in poglobljeno usposabljanje o pravicah oškodovancev kaznivih dejanj ter ciljih raziskave in podrobno preučila protokol za izvedbo intervjujev. Ker so bile osebe, ki so vodile intervjuje, hkrati tudi vsi člani projektne skupine in je Mirovni inštitut partner z dolgoletnimi izkušnjami pri opravljanju intervjujev v raziskovalne namene, tudi z ranljivimi populacijami, smo lahko projektno partnerico Altro pripravili na terensko delo in poučili o morebitnih vprašanjih, ki bi se lahko pojavila. Po opravljenem prvem krogu intervjujev so bili med člani slovenske ekipe organizirani dodatni projektni sestanki, na katerih so podrobno razpravljali o svojih izkušnjah z izvedbo intervjujev in se pogovorili o morebitnih odprtih vprašanjih. Najbolj pereče so bile takoj očitne težave pri doseganju ciljnega števila intervjujev, zaradi česar smo imeli obsežne razprave glede dostopa in možnih rešitev za odpravljanje težav.

Na koncu smo v obdobju med oktobrom 2020 in aprilom 2021 intervjuvali deset oseb. Pozneje smo iz vzorca en intervju odstranili, ker se je izkazalo, da je intervjuvanec govoril o policijskih postopkih ipd. v državi, ki ni Slovenija.

Od devetih (9) anketiranih oseb je pet (5) navedlo psihosocialno oviranost (duševno zdravje, duševni razvoj), dve (2) osebi sta navedli kronično bolezen, poleg tega pa tudi psihosocialno oviranost, ena (1) je navedla okvaro vida in ena (1) gibalne ovire. V intervjujih so nastopili šest (6) udeleženk in trije (3) udeleženci. Stari so bili med 25 in 55 let, čeprav nam niso vsi intervjuvanci zaupali natančne starosti. Tri (3) osebe prebivajo v Ljubljani, ena (1) v Mariboru, pet (5) pa svojega prebivališča ni želelo razkriti. Tri (3) osebe so bile žrtve goljufije, ena (1) žrtev velike tatvine, ena (1) žrtev nasilja v družini, dve (2) žrtvi spolnega nasilja, dva (2) žrtvi grožnje.

Vsak intervju je potekal približno 1 do 1,5 ure. Intervjuji so bili zvokovno posneti, poročila o njih pa so bila napisana po dogovorjeni obliki in postopku projekta ARVID. Za vsak intervju je bilo pripravljeno podrobno poročilo glede opažanj izvajalcev intervjujev.

Protokol intervjuja je vključeval vprašanja s področja zagotavljanja informacij o pravicah, napotitve na podporne storitve in njihovo uporabo. Poleg izkušenj in zaznave intervjuvancev so bile zbrane informacije o njihovi oceni zgoraj navedenih vidikov njihove udeležbe v kazenskih in/ali prekrškovnih postopkih s posebnim poudarkom na njihovih potrebah glede na njihovo

specifično oviranost. Protokol je bil zasnovan tako, da je omogočal zbiranje podatkov o zagotavljanju informacij v različnih fazah postopka, kot je primerno v posameznih primerih. Tako so bile ločeno zbrane informacije o interakcijah oškodovancev s policijo, državnim tožilcem in sodnikom.

**Metodološka vprašanja**

Na splošno pripomnimo, da se v nekaterih primerih anketiranci niso dobro spomnili postopka ali dejstev, v nekaterih primerih so bili zmedeni, nekateri so sodelovali v več postopkih (ne nujno kot oškodovanci, temveč tudi kot storilci) itd. Očitno je, da je bil poudarek večinoma na začetnih fazah postopka (tj. postopkih, ki vključujejo policijo). Opazili smo lahko tudi, kako je večina anketirancev pomanjkljivo seznanjenih s svojimi pravicami, z uradnimi postopki ter institucionalnimi pristojnostmi in s splošnimi upravnimi postopki, kar vodi v njihovo doživljanje socialne izključenosti. Poleg tega so pogosto oškodovanci, zlasti osebe z ovirami, odvisne od obdolžencev oziroma storilcev, kar jim preprečuje, da bi jih prijavili ali pa nato zaradi pomanjkanja podpore pride do opustitve prijav. Prav tako se oškodovanci ne identificirajo kot osebe z ovirami, kar je še dodaten razlog za neuveljavljanje njihovih pravic.

### c) Fokusne skupine

Ker je bil odziv potencialnih intervjuvancev manjši od načrtovanega, sta bili dodatno izvedeni dve fokusni skupini, s katerima smo želeli zapolniti vrzel v razumevanju težav oseb z ovirami, ki so žrtve kaznivih dejanj. Tako smo povabili predstavnike civilnodružbenih organizacij, ki zagotavljajo brezplačno pravno pomoč splošnemu prebivalstvu ali določenim skupinam, kot so žrtve nasilja, in organizacije, ki nudijo zagovorništvo in podporo osebam z ovirami. Šteje se, da imajo sodelavci teh organizacij informacije tudi o položaju oseb z ovirami, ki so prav tako žrtve kaznivih dejanj ali prekrškov, in lahko pripomorejo k boljšemu vpogledu v predmet te raziskave. S pomočjo fokusnih skupin smo se tako lahko seznanili z njihovimi izkušnjami pri zagotavljanju pomoči osebam z ovirami, ki so hkrati tudi oškodovanci, in tako zbrali tudi informacije o morebitnih težavah, s katerimi se te osebe srečujejo v kazenskih in prekrškovnih postopkih, pa tudi morda z razlogi, da o njih niso pripravljene poročati. Izkazalo se je, da gre za dragocen dodaten vir informacij.

Prva fokusna skupina je potekala 31. marca 2021 in je vključevala šest (6) udeležencev – predstavnikov organizacij, ki zagotavljajo brezplačno pravno pomoč splošnemu prebivalstvu ali so specializirane za nudenje brezplačne pravne pomoči za posebne skupine, na primer žrtve nasilja v družini. Poleg tega smo opravili tudi ločen intervju z eno od nevladnih organizacij, ki izvajajo brezplačno pravno pomoč, tako za splošno prebivalstvo kot tudi za osebe z ovirami, katere predstavniki se niso mogli udeležiti fokusne skupine.

Druga fokusna skupina je potekala 1. aprila 2021 in je vključevala sedem (7) udeležencev – strokovnjakov za zagovorništvo, to je predstavnike različnih nevladnih organizacij oseb z ovirami ali za osebe z ovirami.

Udeležence prve fokusne skupine (organizacije za brezplačno pravno pomoč) smo vprašali, kako pogosto se nanje obračajo osebe z ovirami. Ena udeleženka je izjavila, da ima od 50 % do 70 % njihovih uporabnikov različne oblike oviranosti, najpogosteje psihosocialne. Pogosto so žrtve nasilja in spolnega nasilja, po navadi gre za mlajše osebe, vendar se v zadnjem času srečujejo z večjim številom žrtev med starejšimi. Psihosocialne ovire so pogosto posledica dolgotrajnega nasilja, ki ga trpijo. Nek drugi udeleženec je omenil, da se osebe z ovirami redko obračajo nanje zaradi kaznivih dejanj, saj imajo običajno vprašanja glede delovnega in družinskega prava. Eden od udeležencev je omenil, da je približno 15 % njihovih strank oseb z ovirami, vendar jih redko obravnavajo kot žrtve kaznivih dejanj.

Udeležence druge fokusne skupine (civilnodružbene organizacije za zagovorništvo oseb z ovirami) smo povprašali, kako pogosto osebe z ovirami poiščejo njihovo pomoč zato, ker so oškodovanci kaznivih dejanj. En uporabnik je dejal, da se oškodovanci, ki so osebe z ovirami, nanje obračajo z vprašanji glede dostopa do odvetnika in ali naj podajo ovadbo za kaznivo dejanje. Drugi udeleženec je omenil, da osebe z gibalnimi ovirami v vlogi oškodovancev običajno ne iščejo pomoči pri civilnodružbenih organizacijah. To, da je nekdo postal žrtev, namreč pri njihovi nevladni organizaciji pogosto izvedo neformalno, saj je ta skupnost precej majhna in informacije krožijo.

**d) Vprašalnik za civilnodružbene organizacije za podporo oseb z ovirami**

Med raziskavo so bili invalidskim društvom poslani vprašalniki, da bi zbrali podatke o njihovi zmožnosti, da prevzamejo večjo vlogo pri podpori žrtev med svojimi odjemalci in sodelujejo s kazenskopravnimi organi, ustanovami in organizacijami.

Vprašalnik za društva je namenjen ugotavljanju njihove možne vloge pri zagotavljanju podpore oškodovancem.

Prejeli smo štiri izpolnjene vprašalnike.

Dve društvi sta odgovorili, da že imata izkušnje s podporo oškodovancem kaznivih dejanj. Zagotavljajo informacije o pravicah in podpori, oškodovancem pomagajo pri komunikaciji, napotijo jih v ustanove, ki nudijo specializirano podporo, in spremljajo oškodovance pri kazenskopravnih institucijah.

Obe bi bili zainteresirani za razširitev podpore, ki jo nudita. Dve društvi, ki nista imeli predhodnih izkušenj s podporo oškodovancem kaznivih dejanj, sta izrazili zanimanje, da bi jo nudili. Zanimalo bi jih nudenje pomoči pri zagotavljanju njihove mobilnosti, obveščanje o njihovih pravicah in razpoložljivi podpori, napotitev v ustanove, ki nudijo specializirano podporo, zagovorništvo pred

kazenskopravnimi institucijami, da olajšajo sodelovanje oseb z ovirami v postopkih in zagotavljanje spremstva na policijo, državno tožilstvo in sodišče.

Da bi bile te civilnodružbene organizacije pripravljene napotiti svoje odjemalce k drugim organizacijam, bi morale imeti te organizacije izkušnje pri delu z osebami z ovirami, zagotovljeno ustrezno fizično dostopnost do njihovih prostorov, njihovi sodelavci pa sposobnost empatije in komunikacije, dobro poznavanje sistema socialne zaščite, pravnega sistema, ustanov in programov, ki so na voljo.

Na vprašanje, kakšna znanja in spretnosti bi njihova organizacija potrebovala, da bi lahko nudila pomoč in podporo oškodovancem kaznivih dejanj, so odgovorili, da bi morali izboljšati svoje znanje o kazenskopravnem sistemu, pridobiti dodatno osebje (pravnike, psihologe), dodatno financiranje in dodatne (fizično dostopne) prostore.

### *1.4. Rezultati intervjujev in fokusnih skupin*

a) Policija

I. Pravni okvir

Države članice EU, vključno s Slovenijo, so morale Direktivo 2012/29/EU Evropskega parlamenta in Sveta z dne 25. oktobra 2012 o določitvi minimalnih standardov na področju pravic, podpore in zaščite žrtev kaznivih dejanj ter o nadomestitvi Okvirnega sklepa Sveta 2001/220/PNZ (v nadaljevanju: Direktiva o žrtvah) v svoje pravne sisteme prenesti do 16. novembra 2015.

Slovenija je zamujala pri (polnem) prenosu Direktive o žrtvah. Dne 26. marca 2019 je bil sprejet Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku (ZKP-N).[1] Eden glavnih ciljev sprejetih sprememb je bil poln prenos Direktive o žrtvah. Spremembe so se začele uporabljati 20. oktobra 2019.

Spremembe so v Zakon o kazenskem postopku prinesle nove pravice, ki prej oškodovancem niso bile na voljo. Nekatere obstoječe pravice so bile podrobneje razdelane in razširjene na oškodovance kaznivih dejanj ali razširjene na nove skupine oškodovancev.

Dopolnitev je razširila opredelitev žrtve oziroma oškodovanca, tako da vključuje nekatere družinske člane oškodovanca, ki je izgubil življenje zaradi kaznivega dejanja. Dodana je opredelitev oškodovanca s posebnimi potrebami po zaščiti: oškodovanec, čigar osebna ali premoženjska pravica je s kaznivim dejanjem znatno prekršena, pa zaradi njegovih osebnih značilnosti ali ranljivosti, zaradi narave, teže ali okoliščin kaznivega dejanja ali zaradi ravnanja obdolženca ali oškodovanca v predkazenskem oziroma kazenskem postopku in izven njega obstaja posebna potreba po varstvu oškodovančeve osebnostne celovitosti pri posameznih dejanjih v predkazenskem in kazenskem postopku (144. člen ZKP).

[1] Slovenija, Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku (ZKP-N), 26. marec 2019.

Dolžnost oblasti, da upošteva ranljivost oškodovancev, je vključena v novi 18.a člen ZKP. V skladu s to določbo morajo policija, državno tožilstvo, sodišče in drugi državni organi, strokovnjaki, izvedenci, sodni in drugi tolmači ter poravnalci še posebej skrbno in obzirno ravnati z oškodovanci, osumljenci, obdolženci in obsojenci, kadar je to potrebno zaradi njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti, ali druge podobne okoliščine.

Policija (in tudi kateri koli drug pristojni organ v predkazenskem ali kazenskem postopku) mora oškodovanca ob prvem stiku seznaniti z načinom obveščanja glede informacij o:

- brezplačni zdravstveni, psihološki in drugi pomoči in podpori;
- pomoči in ukrepih po zakonu, ki ureja preprečevanje nasilja v družini;
- zaščitnih in drugih ukrepih za zagotavljanje osebne varnosti po tem zakonu in zakonu, ki ureja zaščito prič;
- možnosti izvrševanja njegovih pravic v povezavi s postopkom prek pomoči zagovornika;
- obveznem zastopanju pravic mladoletnih oškodovancev, ko so žrtve kaznivih dejanj zoper spolno nedotakljivost, zakonsko zvezo, družino in otroke, zasužnjevanje in trgovino z ljudmi od začetka kazenskega postopka – mladoletnemu oškodovancu, ki je brez zagovornika, se tega postavi po uradni dolžnosti;
- pravici do spremstva osebe, ki ji oškodovanec zaupa, med predkazenskim in kazenskim postopkom;
- pravici, da ne pride do neželenega stika z osumljencem ali obdolžencem, razen če je stik nujno potreben zaradi uspešne izvedbe predkazenskega ali kazenskega postopka;
- pravici do brezplačne pravne pomoči po zakonu, ki ureja brezplačno pravno pomoč;
- možnostih za povrnitev škode po ZKP in po zakonu, ki ureja odškodnino žrtvam kaznivih dejanj;
- plačilu in povrnitvi stroškov oškodovanca;
- pravici do tolmačenja in prevajanja;
- kontaktni osebi pristojnega organa, s katero lahko komunicira o svoji zadevi;
- morebitnih drugih pravicah ali ugodnostih, ki so lahko pomembne za oškodovanca.

Obseg in vrsta informacij sta odvisna od osebnih značilnosti ter ranljivosti oškodovanca, njegovih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka (drugi odstavek 65.a člena ZKP).

Oškodovanec ima tudi pravico, da ga med predkazenskim in kazenskim postopkom spremlja oseba, ki ji zaupa. Pred spremembo so to pravico uživali le mladoletni oškodovanci ali žrtve nasilja. Zdaj lahko to pravico uveljavljajo tudi drugi oškodovanci, če to zahtevajo resnost ali narava kaznivega dejanja, osebne okoliščine žrtve ali stopnja ogroženosti (četrti odstavek 65. člena ZKP), kar je še posebej pomembno za osebe z ovirami. Ta pravica se lahko omeji, če bi bilo spremstvo v nasprotju z interesi postopka ali oškodovanca.

Oškodovanec ima pravico prejeti pisno potrdilo o podaji ovadbe (prvi odstavek 147.a člena ZKP). Oškodovanec ima tudi pravico do prejemanja informacij o stanju predkazenskega oziroma kazenskega postopka ter pravnomočnih sodb. Pristojni organ v predkazenskem oziroma kazenskem postopku ga s pravico seznani in to ustrezno zabeleži na način, da se s tem lahko seznanijo policija, pristojni državni tožilec oziroma sodnik. Obveščanje o stanju predkazenskega oziroma kazenskega postopka se lahko izvaja prek spletnih strani. V ta namen je policija vzpostavila spletno aplikacijo, ki oškodovancem omogoča, da preverijo, v kateri fazi je predkazenski postopek zoper domnevnega storilca. Osebni podatki osumljenca niso na voljo, temveč podatki o tem, ali je bilo kaznivo dejanje vneseno v sistem, ali preiskava še poteka in ali je bila na tožilstvo vložena prijava ali kazenska ovadba. Oškodovanec vnese svoje podatke v zahtevana polja in iz uradnih policijskih evidenc prejme samodejno obvestilo.

V skladu z novim 143.č členom ZKP policija zaradi ugotovitve obstoja posebnih potreb po zaščiti že ob prvem stiku z oškodovancem oceni potrebo po posebni zaščiti oškodovanca, kot jo določa zakon. Šteje se, da mladoletni oškodovanci vedno potrebujejo posebno zaščito. Policija oceno opravi tako, da oškodovancu postavi sklop vprašanj na podlagi obrazca, ki ga je pripravila delovna skupina Ministrstva za pravosodje, ki je bila leta 2019 ustanovljena za pripravo ukrepov za učinkovito izvajanje novih določb Zakona o kazenskem postopku, s katerimi se prenaša Direktiva o žrtvah. Individualna ocena se posodablja, če se bistveno spremenijo njeni elementi. Policija pripravi in posodobi individualno oceno do vložitve kazenske ovadbe ali dokler ne pošlje poročila državnemu tožilstvu. Pri izdelavi ali posodobitvi ocene se lahko pridobi in preuči tudi mnenje pristojnega centra za socialno delo.

Oškodovanec zaradi zagotavljanja svoje osebne varnosti lahko zaprosi za obveščanje o izpustitvi oziroma pobegu osumljenca ali obdolženca iz hišnega pripora ali pripora. S pravico ga ob prvem stiku v predkazenskem ali kazenskem postopku seznani pristojni organ. Obveščanje se lahko zavrne, če bi bil osumljenec ali obdolženec zaradi tega lahko ogrožen. O pobegu osumljenca ali obdolženca iz hišnega pripora oškodovanca obvesti policija ali sodišče, o izpustitvi osumljenca ali obdolženca iz hišnega pripora pa oškodovanca obvesti sodišče. Na zaprosilo oškodovanca se o tem obvesti tudi center za socialno delo.

Oškodovanci uživajo pravico do prevajanja in tolmačenja: na zahtevo oškodovanca je treba prevesti bistvene dokumente: vabila, sklepe o zavrženju kazenske ovadbe, sklepe o zavrženju ali zavrnitvi zahteve za preiskavo, sklepe o ustavitvi postopka, sklepe o zavrženju obtožnega akta, sodbe in pouk o pravici prevzeti oziroma nadaljevati pregon (8. člen ZKP).

## II. Rezultati empirične raziskave

Vseh 9 intervjuvancev je poročalo, da so imeli stik s policijo.

Pet jih je navezalo stik z drugimi ljudmi ali ustanovami, preden so se obrnili na policijo. Dva sta se za podporo obrnila na nevladne organizacije. Eden se je obrnil na svojega odvetnika. Ena intervjuvanka se je oprla na svoje prijatelje. En intervjuvanec je materi povedal, da je bil žrtev kaznivega dejanja. V treh od teh primerov so se intervjuvanci nato sami obrnili na policijo. V dveh primerih so te druge osebe ali ustanove kaznivo dejanje prijavile policiji.

Približno polovica jih je šla na policijo ali je imela stike s policijo sama, preostale pa so spremljali prijatelji ali kolegi ali družinski člani. V dveh primerih sta sogovornika omenila, da se je policija oglasila pri njiju na domu, zato jima ni bilo treba samima na policijo.

Glede dostopa noben od intervjuvancev ni omenjal nobenih težav. Sicer je le eden od intervjuvancev gibalno oviran, vendar mu ni bilo treba iti na policijsko postajo, saj se je policija oglasila pri njemu. Omenil je, da ima pristojna policijska postaja zagotovljeno dostopnost za gibalno ovirane osebe, čeprav je taka dostopnost redka, saj imajo le novejše stavbe policijskih postaj ustrezen dostop za osebe na invalidskih vozičkih.

Na vprašanje, ali so se s policijo pogovarjali sami ali je bil nekdo, ki jih je spremljal, prav tako navzoč, so štirje (4) odgovorili, da so bili sami. Pri tistih, ki so bili sami pri pogovoru s policijo, je policijski postopek (tj. postopek sprejemanja kazenske prijave) vodil eden ali dva policista. Pet (5) intervjuvancev je na policijskem razgovoru spremljala oseba, ki ji zaupajo.

Ko smo jih vprašali, ali so bili poučeni o svojih pravicah, so nekateri odgovorili, da so, drugi pa da ne. Štirje (4) intervjuvanci so povedali, da od policistov niso prejeli prav nikakršnih informacij o svojih pravicah. Preostali so omenili, da so bili poučeni o nekaterih pravicah.

Nato smo vsakemu intervjuvancu našteli pravice:

• pravico do posebej skrbnega in obzirnega ravnanja, če to zahteva vaše zdravje itd.;

• pravico do brezplačne zdravstvene, psihološke in druge pomoči ter podpore, ki jo zagotavljajo centri za socialno delo in druge organizacije;

• pravico, da vas v postopku spremlja oseba, ki si jo sami izberete;

• pravico do zastopanja v postopku s strani osebe, ki je lahko odvetnik;

• pravico do brezplačne pravne pomoči po Zakonu o brezplačni pravni pomoči;

• pravico do poučenosti o možnostih pomoči in zaščitnih ukrepov po Zakonu o preprečevanju nasilja v družini;

• pravico do izogibanja neželenim stikom s storilcem;

• pravico do obveščenosti o izpustu ali pobegu osumljenca ali obdolženca iz pripora ali hišnega pripora, da se zagotovi vaša osebna varnost;

• pravico do obveščenosti o stanju in napredku vaše zadeve ter vaši vlogi v predkazenskem ali kazenskem postopku;

• pravico do vložitve premoženjskopravnega zahtevka;

• pravico do prevzema pregona, če ga državni tožilec opusti ali ne sproži;

• pravico do pritožbe zoper sodbo.

Pravico, da jo v postopku zastopa pooblaščenec, ki je lahko odvetnik, je omenila ena od intervjuvank, ki ugotavlja, da so ji bile informacije posredovane tudi v pisni obliki (izročili so ji list papirja s temi informacijami). Ista intervjuvanka je tudi omenila, da so ji tako dali informacije o brezplačni pravni pomoči. Nihče drug iz našega vzorca ni bil poučen o tej pravici. Pravzaprav, ko smo intervjuvance poučili o njihovih pravicah, je ena intervjuvanka vzkliknila: »*Ne? A res?!*« in dodala, da če bi vedela za to pravico, bi se veliko prej odločila za ovadbo.

Samo ena od intervjuvank je vedela za pravico, da jo lahko spremlja zaupna oseba, ki so jo lahko sama izbere, in jo je tudi uveljavila. Vendar smo hkrati opazili, da so to pravico dejansko uveljavili še trije intervjuvanci brez zavedanja, da je to njihova pravica. Ena oseba je bila poučena o pravici do brezplačne zdravstvene, psihološke in druge pomoči in podpore s strani centrov za socialno delo in drugih organizacij – izročili so ji brošuro, na kateri je bilo omenjeno, da se ima pravico obrniti po pomoč na center za socialno delo.

Dva intervjuvanca sta bila poučena o pravici do obveščenosti o stanju in napredku njune zadeve ter njuni vlogi v predkazenskem ali kazenskem postopku. Ena oseba je bila poučena o pravici do vložitve premoženjskopravnega zahtevka, druga pa se je spomnila, da ji je policist rekel, da bo lahko zahtevala odškodnino v pravdnem postopku – namesto da bi jo poučil o možnosti zahtevati odškodnino že v kazenskem postopku. Ista oseba je bila poučena o svoji pravici, da prevzame pregon, če ga državni tožilec opusti ali ne sproži, vendar se za to ni odločila. O tej pravici sta bila obveščena skupaj dva (2) intervjuvanca.

Pravica do pritožbe zoper sodbo je bila predstavljena enemu intervjuvancu - vendar je treba omeniti, da je to pravico uvedla šele sprememba Zakona o kazenskem postopku iz leta 2019, ki je bila namenjena prenosu Direktive o pravicah žrtev.

Pomembno pa je omeniti, da so sprva nekateri intervjuvanci potrdili, da so bili poučeni o svojih pravicah, toda ko smo med intervjujem prebrali seznam pravic, se niso mogli spomniti, da bi dejansko slišali zanje (izkazalo se je, da dejansko niso bili poučeni o teh pravicah). En intervjuvanec je odločno izjavil, da pozna svoje pravice (»*Jaz poznam pravice*«), vendar se je med intervjujem dejansko izkazalo, da ga policija ni poučila o pravicah. Analiza torej kaže, da pravzaprav nihče dejansko ni bil poučen o polnem naboru pravic žrtev; ne v ustnem pogovoru, kaj šele v pisni obliki.

Eden od vprašanih, ki je dejal, da ni bil poučen o svojih pravicah, je izjavil: »*Nobenih pravic mi niso… razložili. Oziroma, jaz sploh sam nism vedo, da mam kake pravice. Ne ustno ne pisno*« (intervju št. 3).

Pri nekaterih intervjuvancih je opazna zmedenost glede tega, katere dokumente so dobili, kakšne naj bi bile njihove pravice in kaj je v središču pozornosti.

Na primer, ena intervjuvanka je izjavila, da je prejela list papirja s svojimi pravicami. Toda nadaljnji pogovor je razkril, da je list, ki ga je prejela, zapisnik njenega pogovora s policijo. Ko smo ji med intervjujem prebrali posamezne pravice, se ni spomnila, da bi slišala za katero od njih (intervju št. 4).

Drugi intervjuvanec je bil zmeden glede pravic, o katerih ga je poučila policija, in pravic, za katere meni, da jih ima še vedno po tem, ko so mu odvzeli poslovno sposobnost. V nadaljevanju intervjuja je dejal, da je dobil list papirja, vendar da mu policija ustno ni ničesar pojasnila (intervju št. 9).

Kot je bilo že omenjeno, je bila najpogosteje uveljavljena pravica do spremstva zaupne osebe po lastni izbiri, ki vas lahko spremlja v postopku; saj so štiri intervjuvance spremljali družinski član, prijatelj ali predstavnik nevladne organizacije.

Glede jasnosti tega, kar so govorili policisti, in glede razumevanja postopka s strani intervjuvancev, naš vzorec kaže, da so bili ti na splošno razumljivi in jasni. Ker pa jih večina dejansko ni bila poučena o svojih pravicah, je nemogoče govoriti o jasnosti posredovanih informacij. En intervjuvanec je sicer omenil, da ni bilo povsem jasno, o čem so govorili policisti, drugi pa je ugotovil, da so policisti precej površni.

Kot je dejala ena od intervjuvank: »*Najbolj fajn bi bilo, da bi mi našteli vse te pravice oziroma da bi mi povedali za njih, da to je. To mi ful manjka! Da bi malo bolj poznala svoje pravice v tistem momentu*« (intervju št. 6).

Na vprašanje, ali jih je policija vprašala, če med postopkom potrebujejo posebno zaščito, ali se počutijo varne ali potrebujejo dodatno psihološko ali drugo zdravniško pomoč, je le ena intervjuvanka odgovorila, da so ji ponudili ginekološki pregled. A ker je bila žrtev spolnega nasilja, kaže, da so ji to ponudili v okviru preiskave kaznivega dejanja in ne da bi ji zagotovili zdravstveno varstvo. Preostali intervjuvanci niso prejeli teh dodatnih storitev.

V Sloveniji podporo oškodovancem zagotavljajo centri za socialno delo. Pomoč in podporo nudijo tudi nekatere nevladne organizacije, zato smo intervjuvance vprašali, ali jih je policija napotila na center za socialno delo ali nevladno organizacijo in ali jim je pokazala kakršne koli pisne informacije o pravicah, v katerih so bile navedene tudi organizacije, ki jih lahko pokličejo, oziroma ali so jim svetovali, koga bi bilo najbolje kontaktirati. V našem vzorcu so vsi zanikali prejem takih informacij, razen ene intervjuvanke, ki je dejala, da je bila možnost obiska centra za socialno delo omenjena na listu papirja, ki ji ga je izročila policija. Na policiji so ji rekli, naj prebere podatke in uporabi zapisano.

Odgovori na vprašanje o odnosu policistov do naših intervjuvancev oziroma ugotavljanju, ali so menili, da organi poskušajo upoštevati njihovo oviranost in zadovoljiti njihove potrebe, so bili različni. Dva intervjuvanca sta menila, da so policisti z njima ravnali korektno in niso imeli nadaljnjih komentarjev glede njihovega odnosa. Eden je odnos policije opisal kot razumevajoč, drugi pa kot vljuden in dober. Eden je opozoril, da so poskušali zadovoljiti njegove posebne potrebe. Ker je na invalidskem vozičku, ga je policija vprašala, kako se počuti, in mu dala prednost pred drugimi oškodovanci, ki so prav tako čakali na policijski razgovor (šlo je za skupino žrtev istega kaznivega dejanja – vlom v objekt), da ga ne bi pustili predolgo čakati zunaj na mrazu. Po drugi strani pa so policisti, ko so prvič pristopili do njega in njegovega očeta, pokroviteljsko vprašali očeta, ali lahko intervjuvanec govori, kar se mu je zdelo znak pomanjkanja znanja in strahu pred njegovo drugačnostjo in oviranostjo: »*Menim, da se je policist malo ustrašil drugačnosti. Manjka jim znanja, opažam, kako pristopiti (žrtvi)*« (intervju št. 9).

Trije intervjuvanci so poročali o precej negativni izkušnji. Nekdo je menil, da je bilo ravnanje nepravično, in poudaril, da se je ves čas postopka počutil, kot da bi bil kaznovan, tako je bilo tudi ravnanje, ki ga je bil deležen od vpletenih policistov: »*'Js pač mislim, da so me na nek način kaznovali*« (intervju št. 3).

Drugi intervjuvanec je poročal o neprofesionalnem odnosu policije: »*Odnos je […] bom rekla po staro kmečko slovensko, […] kot da bi krave skup pasli*« (intervju št. 4).

Tretja intervjuvanka je dejala, da sta jo dve kriminalistki spravili do solz: »*Ko sem dala prijavo je bila prva kriminalistka, iz prvega postopka, bolj prijazna, druga bolj ne. A obe sta me zlomili, ko sem dala prijavo, spravili sta me do joka*« (intervju št. 8).

V enem primeru je bila naša intervjuvanka na splošno zadovoljna s policijskim ravnanjem, vendar je opozorila na dimenzijo spola. Ker je bila žrtev spolnega nasilja, je ugotovila, da je neprimerno, da policijski razgovor vodi policist, saj bi raje podrobnosti pojasnjevala policistki (še posebej, ker je morala nekatere stvari pojasniti večkrat):

»*Drugače so bili tudi v vprašanjih, ki so jih postavljali, ok […] samo mogoče bi jaz v tem primeru raje imela žensko, a ne, ne moškega. Raje bi imela žensko kriminalistko, ne moškega. Pač bila sta dva, ampak ona je pisala zapisnik in poslušala, pogovarjala sem se jaz z moškim. In potem nisem vedela, a bi mogoče jaz lahko rekla, da bi raje imela žensko – ali ne? To mi takrat nekako ni bilo jasno. In to ful ni bilo OK, da pač, da moram to moškemu razlagati, to mi ni bilo glih ravno prijetno*« (intervju št. 6).

Te ugotovitve sta potrdili tudi razpravi obeh fokusnih skupin. Glede dejanskih primerov, s katerimi so se srečevali med bogatimi izkušnjami pri delu z žrtvami z ovirami, so tudi intervjuvanci v fokusnih skupinah prišli do podobnih ugotovitev. V fokusnih skupinah so udeleženci poudarili, da je prvi stik s policijo pogosto neprimeren, zlasti če ima oškodovanec psihosocialne težave ali težave s komunikacijo. To je še bolj očitno v primerih, ko je storilec bolj artikuliran in je žrtev hitro zaznana kot »nora« in »da nima pojma«. Po drugi strani pa oškodovanec ne sme biti preveč

samozavesten: »*Žrtev mora ravno prav jokati, mora biti žalostna ravno prav in mora biti sposobna primerno povedati, da lahko policija to zapiše.*«

Intervjuvanci so omenili, da je v postopkih pri policiji prisotne veliko stigmatizacije in diskriminiranja. Zelo pogosto bodo pri pristopanju oškodovancem z ovirami najprej ugotavljali, ali je oškodovanec poslovno sposoben ali pa je morda pod skrbništvom. Pri policiji obstaja prepričanje, da osebe, ki so omejeno poslovno sposobne ali pa jim je bila poslovna sposobnost povsem odvzeta, ne morejo razumeti in sodelovati v postopku. Policija tudi ne želi tratiti časa s pogovorom z oškodovancem, ampak se bo raje pogovorila z njegovim skrbnikom. To je lahko zelo problematično, saj ni redko, da so skrbniki dejansko storilci ali pa imajo svoje partikularne interese, ki morda niso v skladu z najboljšimi interesi oškodovanca.

### b) Državno tožilstvo

#### I. Pravni okvir

Kot je opisano v razdelku 1.a.I (Policija), so državni tožilci prav tako dolžni skrbno in obzirno ravnati z oškodovanci, ob upoštevanju njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti ali druge podobne okoliščine.

Oškodovance so dolžni poučiti o njihovih pravicah ob prvem stiku glede na osebne značilnosti in ranljivosti oškodovanca, njegove posebne potrebe po zaščiti, naravo, težo in okoliščine kaznivega dejanja ter fazo predkazenskega ali kazenskega postopka (65.a člen ZKP).

Državni tožilci so tudi dolžni pripraviti individualno oceno oškodovanca v nadaljevanju predkazenskega in kazenskega postopka. Zaradi priprave individualne ocene lahko državno tožilstvo oškodovanca povabi na državno tožilstvo.

Če državni tožilec ugotovi, da ni nobenega razloga za pregon kaznivega dejanja po uradni dolžnosti, mora oškodovanca v osmih dneh obvestiti in ga poučiti, da lahko sam sproži pregon. Državni tožilec mora oškodovanca tudi poučiti, kaj lahko stori za uveljavljanje te pravice. Enak postopek uporabi sodišče, kadar državni tožilec opusti pregon. Oškodovanec ima pravico sprožiti ali nadaljevati pregon v 30 dneh od dneva, ko je bil seznanjen z informacijami.

Preden državni tožilec zavrže ovadbo za kaznivo dejanje, za katero je v zakonu predpisana kazen zapora več kot osem let, mora oškodovanca pisno seznaniti z namero, da bo zavrgel ovadbo, ter mu navesti bistvene razloge za to odločitev in mu omogočiti, da se v roku 15 dni do njih pisno opredeli ter da posreduje morebitne dodatne podatke in dokaze glede utemeljenosti suma, da je osumljenec storil kaznivo dejanje.

### II. Rezultati empirične raziskave

Čeprav je v petih primerih naših intervjuvancev prišlo do glavne obravnave, je le ena intervjuvanka poročala, da je bila v stiku z državnim tožilcem na sestanku na državnem tožilstvu. Spremljal jo je predstavnik nevladne organizacije, vendar se je z državnim tožilcem pogovarjala sama. Povedala je, da jo je državni tožilec poučil o njenih pravicah kot oškodovanki.

Drugih osem (8) intervjuvancev je reklo, da niso imeli neposrednega stika z državnim tožilcem v smislu sestanka ali razgovora.

Dva druga intervjuvanca sta omenila, da sta bila s tožilcem v stiku le med glavno obravnavo. Ena od njiju je omenila, da je na vsaki obravnavi prisoten drug državni tožilec – za vodenje posamezne zadeve namreč ni skrbel en in isti državni tožilec, ki bi bil pristojen za njeno zadevo in bi bil navzoč na vsaki sodni obravnavi.

Druga intervjuvanka je omenila le, da je državni tožilec pregon zavrgel, vendar se ga sama ni odločila prevzeti. Drugi intervjuvanci so navedli le, da z državnim tožilstvom niso imeli nobenega stika.

Podobno je veljalo za udeležence fokusnih skupin; na njih se o vlogi državnega tožilstva niso pogovarjali in je komentirali.

## c) Sodišče

### I. Pravni okvir

Kot je opisano v razdelku 1.a.I (Policija), so tudi sodišča dolžna skrbno in obzirno ravnati z oškodovanci, ob upoštevanju njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti ali druge podobne okoliščine.

Že ob prvem stiku so oškodovanca dolžna poučiti o njegovih pravicah glede na njegove osebne značilnosti in ranljivosti, njegove posebne potrebe po zaščiti, naravo, težo in okoliščine kaznivega dejanja ter fazo predkazenskega ali kazenskega postopka (65.a člen ZKP).

Oškodovanec ima pravico opozoriti na vsa dejstva in predlagati dokaze, ki so pomembni za to, da se ugotovi kaznivo dejanje in izsledi storilec ter odloči o premoženjskopravnem zahtevku (prvi odstavek 59. člena ZKP).

Na glavni obravnavi ima oškodovanec pravico predlagati dokaze, postavljati obdolžencu, pričam in izvedencem vprašanja, dajati pripombe in pojasnila glede njihovih izpovedb ter dajati druge izjave in postavljati druge predloge (59. člen ZKP).

Prav tako imajo pravico pregledovati spise in si ogledati dokazne predmete. Vendar pa sme sodišče oškodovancu odreči pregled spisov, dokler ni zaslišan kot priča (tretji odstavek 59. člena ZKP).

Zakon predvideva tudi zaščito oškodovanca med sodnim postopkom.

Oškodovanec ima pravico, da ga spremlja oseba, ki ji zaupa, vsaj v primerih, ko to zahtevajo resnost ali narava kaznivega dejanja, osebne okoliščine oškodovanca ali stopnja ogroženosti (65. člen ZKP).

Sodišče mora oškodovancu omogočiti, da ne pride do neželenega stika z osumljencem ali obdolžencem, razen če je stik nujno potreben zaradi uspešne izvedbe predkazenskega in kazenskega postopka.

Nekatere določbe, namenjene mladoletnim oškodovancem, so razširjene tudi na ranljive oškodovance, ki potrebujejo zaščito. Na glavni obravnavi na primer ni dovoljeno neposredno zaslišanje oseb, mlajših od 15 let, ki so bile žrtve spolnih deliktov, zanemarjanja in slabega ravnanja z otrokom, trgovine z ljudmi in zasužnjevanja. V teh primerih mora sodišče prebrati zapisnik predhodnega zaslišanja teh oseb. Po potrebi sodišče stori enako za druge mladoletne oškodovance in za oškodovance s posebnimi potrebami po zaščiti (331. člen ZKP).

Pri odredbi ali določanju zaščitnih ukrepov je treba upoštevati individualno oceno potreb po zaščiti oškodovanca, ki jo pripravita policija in državno tožilstvo. Med temu ukrepi so lahko:

- snemanje zaslišanja priče ali oškodovanca – osebe, mlajše od 15 let (prvi odstavek 84. člena ZKP);
- zaslišanje s pomočjo izvedenca in v posebej prilagojenih prostorih (240. člen ZKP);
- zaščita osebnih podatkov prič in zaslišanje s pomočjo tehničnih sredstev, na primer z zagotovitvijo zaščitne stene (240.a člen ZKP);
- zaslišanje prek videokonference (prvi odstavek 244.a člena ZKP);
- izključitev javnosti na glavni obravnavi (295. člen ZKP).

Obstaja tudi možnost uporabe mehanizmov v skladu z Zakonom o zaščiti prič, ki je sistemski zakon, ki omogoča zaščito pomembnih prič pri hudih kaznivih dejanjih, če je njihovo življenje ali telo ali življenje ali telo druge ogrožene osebe resno ogroženo, za preprečitev nevarnosti pa so potrebni zaščitni ukrepi.

## II. Rezultati empirične raziskave

Pet naših intervjuvancev je dejalo, da je njihov primer obravnavalo sodišče.

En intervjuvanec se ni spomnil nobenih podrobnosti v zvezi s kazenskim postopkom. Spomnil se je le sodnega postopka glede njegove poslovne sposobnosti.

Enega od intervjuvancev so v času sojenja proti njegovi volji namestili v zavod. Povabljen je bil kot priča, nato pa je bilo odločeno, da ni sposoben sodelovati (po njegovih besedah) in da ga ne bodo pripeljali iz zavoda na sodišče, zato se obravnave ni mogel udeležiti.

Ena intervjuvanka ni delila veliko informacij o postopku, je pa bila zelo jezna in razočarana nad celotnim postopkom. Glavne obravnave se je udeležila sama, brez zagovornika ali osebe, ki ji zaupa, storilec pa je imel odvetnika, zaradi česar se je počutila ranljivo in osamljeno. Menila je, da sodišče njene oviranosti ni upoštevalo.

Druga intervjuvanka je povedala, da je bila nad sojenjem resnično razočarana in da je obžalovala prijavo kaznivega dejanja. Sojenje se vleče že zadnji dve leti, ker se obdolženec ne udeležuje glavne obravnave. Povedala je, da jo na obravnavah običajno spremlja mater, ker pa je tudi sama priča v postopku, je med zaslišanjem ne more podpirati. Zastopa jo odvetnik. Je pa zelo razočarana nad njegovim delovanjem, saj je izjavila, da odvetnik tam sedi le »kot lutka« in ne naredi nič, da bi jo zaščitil pred nadlegovanjem obdolženčevega odvetnika. Ko je odvetnika vprašala, zakaj je ne zavaruje, je dejal, da ne more, saj bi ga sodnica kaznovala. Zaupala nam je, da jo obdolženčev odvetnik nadleguje znotraj in zunaj sodne dvorane: tako jo včasih zaslišuje več kot eno uro in je zelo agresiven, razstavi njen vsak stavek in si prizadeva pokazati, da laže. V sodni dvorani jo je pripeljal do solz in nihče je ni zaščitil. Prav tako ji je na domači naslov poslal pismo in od nje zahteval, da svojo zadevo umakne. O pismu je obvestila svojega odvetnika, ki pa glede tega ni ničesar storil. Razočarana je tudi nad sodnico. Ko njen odvetnik dvakrat ni bil navzoč, ni želela pričati. Toda sodnica ji je zabrusila, da bo morala pričati, sicer jo bo zaprla, dokler ne bo pričala. Intervjuvanka je dejala, da je bila večkrat zaslišana. Ko je sodnico prosila, naj prebere njene predhodne izjave, saj ne želi več pričati, ji je sodnica zagrozila, da jo bo kaznovala. Intervjuvanka je navedla, da je sodnica nikdar ni poučila o njeni pravici, da se izogne neželenim stikom s storilcem, niti o pravici, da obdolžencu postavlja vprašanja. Kot je dejala intervjuvanka, ji sodnica ni dovolila komentirati ali postavljati vprašanj: »Tukaj ste zato, da drugi vam postavljajo vprašanja, ne zato, da bi jih vi postavljali.« Po drugi strani pa ji obdolženec sme postavljati vprašanja, čeprav se ga zelo boji. Sodnica jo je poučila le o tem, da mora o spremembi svojega naslova obvestiti sodišče in da ima pravico ne odgovarjati na določena vprašanja. Ko pa na vprašanje, za katerega se ji je zdelo, da ogroža njeno družino, ni hotela odgovoriti, je nanjo pritisnila sodnica. Intervjuvanka je nato povedala, da je sodnico spomnila, da jo je sama poučila o pravici, da ji ni potrebno odgovarjati na določena vprašanja, in šele nato je sodnica odnehala (intervju št. 8).

Ena intervjuvanka je tudi dejala, da ni bila poučena o svojih pravicah, temveč le o svojih dolžnostih. Med sojenjem jo je zastopal odvetnik. Pripomnila je, da je bila prijetno presenečena, ker ji je sodnik omogočil, da je prejela zapisnik obravnave v brajici. Imela je občutek, da so

upoštevali njeno oviranost in poskušali zadovoljiti njene potrebe: »*V bistvu mi je bilo na sodišču, pri tem sodniku, fajn, ker je predlagal Braillovo pisavo za zapisnik. Pa sem rekla JA, ker me je zanimalo in sem dejansko dobila potem to po pošti domov. Pa se mi je zdelo fajn. Ker do takrat sploh nisem vedela, da je to možno dobiti v taki obliki. Ker potem bi mogoče tudi na policiji lahko to možnost imela, da bi to dobila tako*« (intervju št. 6).

V fokusnih skupinah so udeleženci poudarili, da sodišča ne znajo komunicirati z osebami z ovirami: »Postopek se mora nadaljevati in ni pomembno, kdo je v njem.« Način, kako sodniki postavljajo vprašanja, ne odraža značilnosti oškodovancev; na enak način zaslišujejo vse osebe.

Intervjuvanci so še omenili, da so postopki zelo dolgi. Ena od intervjuvank je omenila primer svoje uporabnice, ki je bila žrtev spolnega nasilja v starosti 15 ali 16 let. Zdaj je stara 20 let, vendar postopek na prvi stopnji še vedno ni končan.

Dejali so tudi, da mora vsak oškodovanec vsaj trikrat pričati ali dati izjavo: na policiji, med (sodno) preiskavo in na glavni obravnavi.

Eden od intervjuvancev je omenil primer svoje stranke, žrtve nasilja v družini, ki je imela okvaro sluha. Sodišče je zavrnilo uporabo zaščitnih ukrepov, ki bi med njenim pričevanjem preprečili neželene stike s storilcem, čeprav jih določa zakon.

### d. Druge storitve

#### I. Pravni okvir

Oškodovanci imajo pravico do brezplačne zdravstvene, psihološke in druge pomoči ter podpore, ki jo zagotavljajo centri za socialno delo in druge organizacije.

Poleg zdravstvenih storitev, ki jih zagotavlja sistem javnega zdravstva, ima oškodovanec kaznivega dejanja tudi pravico do strokovne podpore strokovne pomoči pristojnega centra za socialno delo, kot je določeno v prvi točki prvega odstavka 65.a člena ZKP. Oškodovancem lahko pomagajo tudi nevladne organizacije.

Ne glede na to, ali oškodovanec prijavi kaznivo dejanje, ima pravico do podpore po zakonu, ki ureja socialno zaščito, ki vključuje strokovno podporo in strokovno svetovanje. To podporo zagotavljajo centri za socialno delo. To oškodovancu omogoča, da se po škodi, ki jo je utrpel zaradi kaznivega dejanja, psihološko, socialno in finančno postavi na noge.

Le dva intervjuvanca sta bila napotena na center za socialno delo. Drugi intervjuvanci niso bili poučeni o svoji pravici, da iščejo podporo pri centru za socialno delo ali nevladnih organizacijah. Eden od njih je prejel zgolj zloženko z informacijami o možnosti iskanja pomoči na centru za socialno delo.

Drugi niso bili poučeni ali napoteni na ustanove, ki zagotavljajo podporo. Vendar pa je pet drugih intervjuvancev v stikih z nevladnimi organizacijami bodisi že pred postopkom bodisi so med postopkom poiskali informacije o možni podpori (denimo na spletu) in se nato obrnili na nevladne organizacije.

Vsi razen enega so bili na splošno zadovoljni s podporo, ki so jo prejeli. Ena intervjuvanka je izjavila, da ji center za socialno delo ni mogel pomagati in da so se počutili nemočne. Ponudili so ji namestitev v kriznem centru (da bi jo zavarovali pred napadalcem), vendar je intervjuvanka ponudbo zavrnila, ker se ni hotela odreči svojemu življenju samo zato, da bi bežala pred obdolžencem – ni šlo za nasilje v družini, vendar so bile resne grožnje zoper njo in njeno varnost. To kaže na sistem, v katerem žrtve ne uživajo podpore z vidika varnosti, razen če se fizično odstranijo iz situacije, kar pa je nesorazmeren poseg v njihovo življenje in običajno žrtve tega nočejo storiti ali pa to storijo le v skrajni sili (denimo v primeru hudega nasilja v družini). Obrnila se je tudi na nevladno organizacijo, toda oseba, ki ji je dajala največ podpore, je nato zapustila organizacijo. Ko se je znova obrnila na isto nevladno organizacijo, so ji odvrnili, da je na sodišče ne morejo spremljati (kar je bila njena želja).

Na vprašanje, kakšno vlogo bi morale imeti organizacije in invalidska društva, so intervjuvanci odgovorili, da bi bila večja vloga zelo koristna, saj bi lahko zagotovili, da bodo osebe z ovirami razumljene in slišane; lahko pa jim tudi zagotovijo ustrezne informacije. Vendar so menili, da bodo te organizacije potem potrebovale več osebja in finančne podpore, prav tako pa bodo morale biti prisotne na celotnem državnem ozemlju in ne samo v glavnem mestu ali večjih mestih.

Na vprašanje, kako bi lahko izboljšali postopek podajanja informacij, so odgovorili, da mora obstajati mreža, tako da posameznik točno ve, kam se lahko obrne po pomoč in informacije; zagotoviti je treba lahko berljive in dostopne oblike; omenili so tudi, da bi morale ustanove bolje prisluhniti in razumeti osebe z ovirami.

Na vprašanje, kdo jim je najbolj pomagal, so nekateri omenili podporo nevladnih organizacij in socialnih delavcev. Ena intervjuvanka je omenila, da se je po pomoč večinoma obrnila na svojega odvetnika. Druga pa je dejala, da ji je najbolj pomagala in jo razumela njena psihiatrinja. Poudarili so, da je treba imeti ob sebi osebo, ki ji je mogoče zaupati, ki osebo spremlja, podpira in zagovarja njene pravice.

e) Rezultati fokusnih skupin

1. **Osebe z ovirami kaznivih dejanj ne prijavijo:**

Udeleženci naših fokusnih skupin so omenili več razlogov, zakaj osebe z ovirami ne prijavljajo kaznivih dejanj:

- kazniva dejanja se pogosto zgodijo v družini. To pomeni, da oseba z ovirami živi s storilcem in je finančno odvisna od njega. Čeprav bi moral koncept osebne asistence zagotavljati določeno stopnjo neodvisnosti od družinskih članov, ki so pogosto tudi zakoniti zastopniki ali skrbniki oseb z ovirami, v praksi ni vedno tako. Udeleženci fokusnih skupin so omenili primere, ko je zakoniti zastopnik tudi osebni asistent, kar mu daje popoln nadzor nad osebo;
- odločitev za prijavo je težka, še težje pa je zdržati postopek. Sprva se žrtve odločijo za prijavo, potem pa je ta zelo dolgotrajen. Vsako vabilo, vsako zaslišanje jih spomni na njihovo travmo;
- bojijo se za svojo varnost - prepovedi približevanja niso učinkovite;
- organi jim ne verjamejo in jih ne jemljejo resno;
- ne zavedajo se, da so žrtve; ne zavedajo se, da je to, kar se jim dogaja, kaznivo dejanje;
- socialna izključenost – osebe z ovirami pogosto nimajo ustrezne socialne mreže, ki bi jih podpirala.

2. **Žrtve so kaznovane namesto, da bi se jih podprlo**

Njihova oviranost se uporabi proti njim. Osebam s psihosocialnimi težavami je v odziv na kaznivo dejanje, storjeno zoper njih, odvzeta poslovna sposobnost - namesto da bi jih podprli kot oškodovance. Omenjen je bil primer, ko je bila oseba žrtev prevare in da bi jo zaščitili »pred samo seboj«, ji je bila odvzeta poslovna sposobnost in odrejena je bila namestitev v zavod.

3. **Nizka raven ozaveščenosti**

Policija, državni tožilci in sodniki se na splošno ne zavedajo različnih vrst oviranosti in posledic za sposobnost oseb, da komunicirajo in sodelujejo v postopkih.

4. **Komuniciranje in posredovanje informacij je neprimerno**

Informacije niso zagotovljene v celoti ali pa na razumljiv način. Gradivo v obliki lahkega branja ni na voljo.

5. **Prostori niso dostopni**

Naši udeleženci, ki so nudili brezplačno pravno pomoč, so omenili, da njihovi prostori niso dostopni gibalno oviranim osebam. V takih primerih so morali najti druge rešitve, včasih so se zatekli k srečanju z osebami na prostem, če je to vreme dopuščalo, ali k iskanju drugih primernih krajev. Omenili so tudi, da osebe z ovirami nimajo prevoznih sredstev, da bi prišli do njih; ali pa so bili dejanski storilci edini, ki bi jih lahko pripeljali na posvetovanje.

6. **Spremstvo osebe, ki ji oseba z ovirami zaupa, ni predvideno**

Ta problem ima dve plati. Udeleženci so na eni strani omenili, da oblasti o tej pravici oseb z ovirami ne obveščajo ali pa jim ne dovolijo, da bi bila navzoča oseba, ki ji zaupajo. Po drugi strani ta storitev ni dostopna za številne oškodovance, saj organizacije, ki jih podpirajo, nimajo osebja ali finančnih sredstev za spremstvo. Oškodovanci sami nimajo sredstev za plačilo take storitve.

7. **Zagovorništvo ni vključeno v sistem**

Organa, kot sta policija ali sodišče, ne sodelujeta z organizacijami, ki osebam z ovirami nudijo podporo, svetovanje in zagovorništvo. Prisotnost in sodelovanje osebja teh organizacij ni urejeno, saj je stvar posameznega organa, ali bo kaj od tega dovolil.

Nevladne organizacije, ki nudijo svetovanje in zagovorništvo, imajo pogosto veliko informacij o zadevi, ki bi bile koristne za organe pregona. Imajo tudi potrebna znanja za komuniciranje in pridobivanje ustreznih informacij od svojih strank. Organom so sposobne posredovati informacije in pridobiti tisto, kar je pomembno za postopek. Lahko delujejo kot most med stranko in njihovimi organi, vendar niso integrirani v sistem in v postopkih nimajo formalne vloge.

8. **Zakonsko zastopanje oseb z ovirami ni učinkovito**

Oškodovancem z ovirami brezplačna pravna pomoč ni lahko dostopna. Na splošno, predvsem pa osebam z ovirami, je težko izpolniti prošnjo za brezplačno pravno pomoč. Služba za brezplačno pravno pomoč pri sodišču ne zagotavlja vedno podpore. Od prosilca se pričakuje, da bo to storil sam. Udeleženci so omenili, da je sodišče pogosto zahtevalo dodatne informacije in dopolnitve, tudi če je prosilcem obrazec pomagal izpolniti izkušen pravni strokovnjak: »*In potem dobim občutek, da sodišče noče priznati brezplačne pravne pomoči*!«

Sistem onemogoča pridobitev brezplačne pravne pomoči tudi tistim ljudem, ki imajo premoženje, vendar nimajo dostopa do njega, kot so osebe, ki so zaprte v inštitucijah.

Splošna težava je, da ljudje za nekaj evrov presežejo cenzus, zato do brezplačne pravne pomoči niso upravičeni, hkrati pa si ne morejo privoščiti odvetnika.

Težava je tudi v tem, da odvetniki, ki jih zastopajo, niso dovolj usposobljeni. Odvetniki niso občutljivi na potrebe in ovire, s katerimi se srečujejo osebe z ovirami, zlasti kadar gre za

psihosocialne ovire. Postavljeni odvetniki si ne vzamejo dovolj časa ali se ne potrudijo, da bi postopek pojasnili na razumljiv način.

Odvetniki bi morali razumeti svojo vlogo tako, da so glas svojih strank, namesto tega pa so pasivni in zaključke prepuščajo sodnim izvedencem.

### *1.5. Priporočila*

1. **Vzpostavitev učinkovitega sistema podpore žrtvam, ki so osebe z ovirami oz. invalidnostmi**

Raziskava je pokazala, da se žrtve z ovirami redkeje odločajo za prijavo kaznivih dejanj. Eden od razlogov za to je, da se kazniva dejanja pogosto zgodijo v družini in da je storilec nekdo, od katerega je žrtev z ovirami finančno in drugače odvisna. Čeprav naj bi osebna asistenca poskrbela za določeno stopnjo neodvisnosti od družinskih članov, ki so v nekaterih primerih tudi skrbniki ali zakoniti zastopniki oseb z ovirami, se dogaja tudi to, da je isti družinski član tako skrbnik kot osebni asistent, kar pomeni popolno kontrolo nad osebo z invalidnostjo. Med drugim osebe z ovirami lahko doživljajo socialno izključenost in posledično nimajo zadostne socialne mreže, ki bi jih podpirala, prav tako jim primanjkuje informacij o pravicah, ki jih imajo, včasih tudi o tem, da je to, kar doživljajo, kaznivo dejanje.

Zato je potrebno vzpostaviti učinkovit sistem podpore osebam z ovirami, ki so žrtve kaznivih dejanj, ki bo upošteval njihove posebne potrebe in bo omogočal emancipirano uresničevanje njihovih pravic.

2. **Zagotavljanje dostopa brez ovir**

V raziskavi je bilo izpostavljeno, da so prostori organov, zlasti kadar se ti nahajajo v starejših stavbah, še vedno težko dostopni osebam z ovirami.

Osebam z ovirami je treba omogočiti neoviran dostop do prostorov pravosodnih organov in inštitucij, ki jim nudijo pomoč in podporo.

3. **Informiranje žrtev, ki so osebe z ovirami**

Nekatere žrtve z ovirami, ki smo jih intervjuvali v naši raziskavi, se niso spominjale, da bi jim ob stiku z organom omenili kakršnekoli pravice, ki jih imajo kot žrtve oziroma oškodovanci. Nekateri so se spomnili le nekaterih pravic. Na primer, le ena od intervjuvanih oseb se je spomnila, da je bila na policiji obveščena o pravici do pooblaščenca, ki je lahko odvetnik. Omenila je, da je bilo to napisano na papirju, ki so ji ga dali policisti.

Tudi predstavniki NVO, s katerimi smo govorili v raziskavi, so omenili, da informacije niso podane celovito ali pa niso podane na razumljiv način. Prav tako pisne informacije niso na voljo v lahko berljivi in razumljivi obliki.

Informacije žrtvam z ovirami bi morale poudariti pravice, ki so posebej namenjene zaščiti ranljivih žrtev in zagotavljanju njihovega sodelovanja v postopku. Te informacije bi morale vključevati pravico do psihološke podpore ter možnost, da se obrnejo na organizacije, ki nudijo podporo in zagovorništvo osebam z ovirami.

Zagotoviti je treba ne le informacije o pravicah, ampak tudi podrobne informacije o tem, kako jih uresničevati.

Policija, državni tožilec in preiskovalni ter predsedujoči sodnik morajo žrtvam z ovirami zagotoviti informacije večkrat - v vsaki fazi kazenskega postopka.

Informacije je treba žrtvam z ovirami ponuditi na dostopen in razumljiv način, v skladu z njihovimi potrebami, tako ustno kot pisno, v lahko berljivi obliki. Informacije morajo biti dostopne tudi v Braillovi pisavi.

### 4. Enakopravno sodelovanje v postopkih

Določbe Zakona o izenačevanju možnosti invalidov (ZIMI) je treba uporabljati in široko razlagati tudi v kazenskem postopku. Osebe z ovirami bi morale imeti možnost predložiti vsa pisanja oziroma se jim omogoči dostop do vseh pisanj v postopku v dostopni in razumljivi obliki. Osebe z okvarami vida in sluha bi morale imeti možnost, da same izberejo obliko.

### 5. Usposabljanje

Intervjuvanci v naši raziskavi so zelo različno poročali o odnosu organov tekom postopka. Nekateri so bili zadovoljni, povedali so, da so bili obravnavani korektno in spoštljivo. Eden od intervjuvancev, ki je oseba z gibalnimi ovirami, je omenil, da so bili policisti do njega zelo spoštljivi in prijazni ter da so ravnali zelo obzirno, vseeno pa so najprej govorili z njegovim očetom in ga vprašali, ali intervjuvanec lahko govori. Intervjuvanec je to ocenil, kot znak neozaveščenosti in da je bilo policistom nelagodno ob njegovi oviranosti. Nekateri intervjuvanci so bili zelo nezadovoljni z odnosom, menili so, da je grob. Nekateri so se bali, da bodo oni kaznovani. Ena od intervjuvank je povedala, da so jo tako na policiji kot na sodišču zlomili in jo spravili v jok.

Splošni pristop do žrtev kaznivih dejanj z ovirami mora biti spoštljiv in pozoren.

Vsi deležniki kazenskega pravosodja (policija, tožilstvo, sodstvo) pa tudi institucije, ki nudijo podporo žrtvam kaznivih dejanj (centri za socialno delo) bi morali biti deležni rednega in obveznega izobraževanja o različnih oblikah oviranosti, potrebah oseb z ovirami in primerni komunikaciji. Posebno pozornost je treba nameniti posebnim potrebam žrtvam z ovirami,

omogočanju njihove neodvisnosti, hkrati pa ponujanjem posebne pomoči, kadar je to potrebno. Treba se je spoprijeti z različnimi stereotipi in predsodki v zvezi z oviranostjo, da se prepreči njihov učinek na obravnavo žrtev v kazenskem postopku.

### 6. Varstvo osebne varnosti in dostojanstva žrtev z ovirami

Ena od intervjuvank je poročala, da je morala podrobnosti o spolnem nasilju povedati moškemu kriminalistu, ob čemer ji je bilo zelo neprijetno. Druga intervjuvanka je povedala, da se storilca zelo boji, a da ji ta lahko na sodišču neovirano postavlja vprašanja, njej pa sodišče ne dovoli, da bi spraševala njega. Omenila je, da je morala na sodišču že večkrat pričati. Zavrnjena je bila tudi njena prošnja, da se njeno zaslišanje preloži, saj se njen pooblaščenec zaslišanja ni mogel udeležiti. Predstavniki NVO, ki nudijo zagovorništvo osebam z ovirami, so poročali, da jim organi ne dovolijo vedno, da so kot zaupne osebe prisotni pri postopku in da so morali prostor zapustiti.

Žrtve z ovirami je treba ustrezno prepoznati kot žrtve s posebnimi potrebami.

Žrtvam z ovirami je treba vedno omogočiti prisotnost zaupne osebe – v vseh fazah postopka.

Sodišča in drugi organi kazenskega pravosodja bi morali omogočiti žrtvam z ovirami, da se izognejo neželenim stikom z obdolženim ter uporabijo možnosti oddaljenega zaslišanja ter uporabe zaslona in drugih tehničnih sredstev za preprečevanje neposrednega stika.

Zaslišanje žrtev z ovirami bi moralo biti posneto z ustreznimi tehničnimi sredstvi za zvočno ali zvočno-slikovno snemanje, podobno kot je to določeno za mladoletne oškodovance. Prav tako je potrebno žrtve z ovirami zaščititi pred večkratnim pričanjem.

Spoštovati je treba tudi pravico, da razgovor z žrtvami z ovirami opravlja oseba istega spola.

### 7. Pravno zastopanje in pravna pomoč

**Intervjuvanci v naši raziskavi niso bili seznanjeni z možnostmi brezplačne pravne** pomoči za oškodovance. Predstavniki NVO, s katerimi smo govorili v raziskavi, so povedali, da je dostop do pravne pomoči pogosto zelo težak, saj je že izpolnjevanje obrazca, na katerem se vloži prošnja za brezplačno pravno pomoč, velik izziv za osebe z ovirami.

Poročali pa so tudi, da mnogi odvetniki nimajo zadostnega znanja za zastopanje žrtev z ovirami v kazenskih postopkih.

Okrepiti je treba informiranje o pravici do brezplačne pravne pomoči. Dostopnost brezplačne pravne pomoči je treba izboljšati, prav tako pa je treba zagotoviti podporo v postopku vlaganja prošnje za brezplačno pravno pomoč.

Razmisliti je potrebno o oblikovanju posebnega seznama odvetnikov, ki so bili deležni usposabljanja s področja potreb žrtev z ovirami, ki bi bili v okviru brezplačne pravne pomoči prvenstveno dodeljeni za zastopanje žrtev z ovirami.

**8. Vključitev nevladnih organizacij, ki združujejo in podpirajo osebe z ovirami v sistem podpore žrtvam kaznivih dejanj**

Nevladne organizacije, ki podpirajo osebe z ovirami niso vključene v sistem podpore žrtvam. Prav tako ni vzpostavljenega sodelovanja med pravosodnimi organi in nevladnimi organizacijami, ki izvajajo zagovorništvo pravic oseb z ovirami. Njihova vključenost je tako odvisna od posamezne uradne osebe. Organizacije, ki nudijo podporo in zagovorništvo imajo pogosto veliko informacij o zadevi, ki bi organom pregona lahko koristile. Prav tako imajo kompetence na področju komunikacije in tako lažje pridobijo relevantne informacije od žrtev z ovirami. Predstavljajo lahko most med njihovimi uporabniki in organi, a ker formalno niso vključene v sistem, ta njihov potencial pogosto ni izkoriščen.

Organizacije, ji nudijo podporo, svetovanje in zagovorništvo osebam z ovirami bi morale biti vključene v sistem podpore žrtvam kaznivih dejanj.

Omogočeno bi moralo biti njihovo sodelovanje z organi kazenskega pravosodja.

Država bi morala zagotoviti zadostna finančna sredstva za krepitev zmogljivosti teh organizacij, vključno za spremljanje žrtev v vseh fazah postopka.

Podpora bi morala biti zagotovljena na celotnem območju države, ne le večjih urbanih središčih.

## *2. Povzetek okroglih miz/sestankov na katerih se je z deležniki razpravljalo o priporočilih*

### 2.1. Povzetek razprav

Na okroglih mizah in zagovorniških sestankih so bili predstavljeni rezultati projektne raziskave oziroma priporočila, ki so nastala na njihovi podlagi; na zagovorniških sestankih pa so bili predstavljeni še informativni in izobraževalni materiali, ki so nastali v nadaljevanju projekta.

Udeleženci so v razpravi ugotavljali, da je Slovenija šele leta 2019 prenesla Direktivo o pravicah žrtev v domačo zakonodajo, pred tem pa nekateri postopki in nekatere pravice še niso bile (tako natančno) opredeljene. Zdaj zakonodaja omogoča zaščito žrtev, vendar pa je potrebno v prihodnje razvijati področje zaščite in podpore žrtvam.
Zagotoviti je treba ustrezno informiranje žrtev, ki so osebe z ovirami, pa tudi žrtev na splošno, tako da bodo informacije podane na dostopen in razumljiv način.

Udeleženci so poročali, da so policija, tožilstvo in sodniki so že bili deležni usposabljanja, a je potrebno kontinuirano izobraževanje, ki bo vključevalo tudi vsebine s področja potreb oseb z ovirami, značilnosti posameznih vrst oviranosti, kako jih prepoznavati in kako prilagoditi postopek potrebam. Nekatere takšne vsebine so že vključene v izobraževanja Centra za izobraževanje v pravosodju, Policijske akademije in Odvetniške akademije Odvetniške zbornice.
Udeleženci so se strinjali, da je treba zagotoviti lažji dostop do brezplačne pravne pomoči. Prva prepreka je pretirano birokratski postopek vložitve prošnje, saj je obrazec pretirano zapleten. Možne rešitve so v digitalizaciji postopka in tudi v povezovanju evidenc, da bi službe za BPP lahko na podlagi davčne številke prosilca vpogledale in pridobile podatke o dohodkovnem in premoženjskem stanju prosilca, kar bi pomenilo pomembno razbremenitev strank.
Zelo koristen bi bil seznam odvetnikov, ki so usposobljeni za delo s strankami, ki so osebe z ovirami. Odvetniška akademija razvija sisteme nadaljnjega dodatnega izobraževanja odvetnikov. To bi pomenilo vpeljavo točkovanja obveznih izobraževanj, ki se jih mora odvetnik udeležiti, da bi nato lahko deloval na določenem področju.
Udeleženci so poudarili, da je prijava kaznivega dejanja za osebe z ovirami še posebej težka in naporna in da so žrtve pogosto odvisne od družinskih članov in se zato težko umaknejo, kadar se kazniva dejanja dogajajo v družinskem krogu. Zato je zelo pomembno, da žrtve z ovirami, ki so odvisne od povzročiteljev ustrezno identificirajo centri za socialno delo ter patronažne službe.

Udeleženci so ugotavljali da so za žrtve na sploh, še toliko bolj pa za žrtve, ki so osebe z ovirami obremenjujoči zelo dolgi postopki, zato mnogokrat obupajo, večkratna zaslišanja so zelo travmatična. Treba si je prizadevati za čim manj zaslišanj in s tem namenom tudi njihovo snemanje. Prav tako je treba v postopku zagotoviti, da jih lahko spremlja zaupna oseba.
Da bi se potrebe žrtev z ovirami lahko ustrezno naslovile, je treba krepiti znanja in ukrepe za pomoč in podporo žrtvam ter krepiti mrežo institucij, ki jo nudijo. K temu bi pripomogla tudi ustrezna vključitev organizacij, ki združujejo in podpirajo osebe z ovirami, v sistem podpore žrtvam, saj bi s svojimi kompetencami pripomogle k boljšemu prepoznavanju potreb žrtev z ovirami, k boljši komunikaciji in informiranju, pa tudi zagotavljanju spremstva v vlogi zaupne osebe.

### 2.2. Seznam zagovorniških dogodkov (kronološko)

1. Okrogla miza s predstavniki državnih inštitucij (Ljubljana), 14. maj 2021 ob 10. uri; Zoom
2. Okrogla miza s predstavniki državnih inštitucij (izven Ljubljane), 14. maj 2021 ob 14. uri; Zoom
3. Okrogla miza s predstavniki organizacij civilne družbe (Ljubljana),13. maj 2021 ob 10. uri; Zoom
4. Okrogla miza s predstavniki organizacij civilne družbe (izven Ljubljane), 13. maj 2021 ob 14.uri; Zoom
5. Sestanek s predstavniki Generalne policijske uprave in Policijske akademije, 8. september 2021 ob 9. uri; v prostorih Policijske akademije
6. Sestanek s predstavniki Ministrstva za pravosodje in Centra za izobraževanje v pravosodju, Dne 9. septembra 2021 ob 10. uri; *Zoom*

7. Sestanek s predstavniki Odvetniške zbornice Slovenije, 10. september 2021 ob 11. uri; v prostorih Odvetniške pisarne LMR
8. Sestanek z organizacijami civilne družbe, ki podpirajo in združujejo osebe z ovirami, 13. september 2021; Zoom
9. Sestanek s predstavniki Nacionalnega sveta invalidskih organizacij Slovenije (NSIOS), 14. september ob 11. uri; Zoom
10. Sestanek s predstavniki Varuha človekovih pravic; 14. september 2021 ob 13. uri, v prostorih Varuha človekovih pravic.

**2.3. Skupna lista udeležencev (abecedni vrstni red)**

*Dušan Bajuk, Društvo delovnih invalidov Ljubljana-Šiška*
*Nevenka Berdnik, Okrožno državno tožilstvo Mariboru*
*Nika Cigoj Kuzma, Društvo Svizci*
*Franc Glušič, Generalna policijska uprava*
*Barbara Jenkole Žigante, Vrhovno državno tožilstvo*
*Ana Kleč, Medobčinsko društvo invalidov Goriške*
*Jernej Koselj, Ministrstvo za pravosodje*
*Miha Kosi, Društvo študentov invalidov Slovenije*
*Martina Košar, Društvo gibalno oviranih invalidov*
*Uroš Kovačič, strokovna služba Varuha človekovih pravic*
*Deja Kozjek, Višje sodišče v Ljubljani*
*Nina Koželj, Ministrstvo za pravosodje*
*Marjeta Kreča, Okrožno državno tožilstvo Celje*
*Goran Kustura, Nacionalni svet invalidskih organizacij Slovenije (NSIOS)*
*Simona Lilek, Policijska uprava Maribor*
*Daša Meglič, Ministrstvo za delo, družino, socialne zadeve in enake možnosti*
*Mateja Meško Kaiser, Center za socialno delo Maribor*
*Uroš Miklič, Odvetniška pisarna LMR d.o.o., član UO Odvetniške zbornice Slovenije*
*Elena Pečarič, Društvo za kulturo hendikepa - YHD*
*Vera Pelhan, Medobčinsko društvo delovnih invalidov Radovljica*
*Mihaela Perković Karadža, Policijska uprava Kranj*
*Žiga Planinec, Policijska akademija*
*Nataša Skubic, Center za izobraževanje v pravosodju, Ministrstvo za pravosodje*
*Ivan Šelih, namestnik Varuha človekovih pravic*
*Andreja Šepec, ŠENT Slovensko združenje za duševno zdravje*
*Cvetko Tovornik, Društvo Svizci*
*Miro Vidic, Medobčinsko društvo invalidov Šmartno*
*Damir Vindiš, Okrožno sodišče v Mariboru*
*Andreja Virant, Center za socialno delo Ljubljana, Vič-Rudnik*
*Renata Žibert, Okrožno sodišče v Kranju*

*Nastja Žlajpah, Zveza društev slepih in slabovidnih Slovenije*
*Melita Žontar, Center za socialno delo Kranj*

Udeleženci s strani projekta:
*Veronika Bajt, Mirovni inštitut,*
*Tilen Recko, Društvo Altra,*
*Katarina Vučko, Mirovni inštitut*

## *3. Informativna gradiva za osebe z ovirami*

### *3.1. Pravice državljanov Evropske unije, ki so žrtve kaznivih dejanj*

**Pravico imate do:**

- **Informacij in podpore;**
- **Sodelovanja kazenskem postopku;**
- **Zaščite in posebnih ukrepov zaščite, če ste žrtev, s posebnimi potrebami po zaščiti**

**Pravica do informacij in podpore vključuje naslednje pravice:**

- pravico razumeti in biti razumljen_a;
- pravico do prejemanja informacij od prvega stika s pristojnim organom;
- pravico prijaviti kaznivo dejanje v jeziku, ki ga razumete, ali s pomočjo potrebne jezikovne pomoči;
- pravico, da prejmete pisno potrdilo vaše uradne prijave kaznivega dejanja, ki ste jo vložili pri pristojnem organu, v kateri so navedeni osnovni elementi v zvezi s kaznivim dejanjem (brezplačno);
- pravico do prejemanja informacij o vaši zadevi: o vsaki odločitvi, da se preiskava ne nadaljuje oziroma se konča ali da kazenski postopek zoper storilca ne bo pričet, o času in kraju sojenja, naravi obtožb zoper storilca, o vsaki pravnomočni sodbi v postopku in vseh informacij, ki vam omogočajo, da se seznanite s stanjem kazenskega postopka (razen če v izjemnih primerih tako obvestilo lahko negativno vpliva na ustrezno obravnavanje vaše zadeve);
- pravico, da ste na vašo zahtevo brez nepotrebnega odlašanja obveščeni, da je bila oseba (storilec), ki je priprta, izpuščena iz pripora ali je iz pripora pobegnila; in da ste obveščeni o vseh ustreznih ukrepih, sprejetih za vašo zaščito, če je bil storilec izpuščen ali pa je pobegnil;
- pravico do tolmačenja in prevajanja v kazenskem postopku;
- pravico dostopa do storitev za podporo žrtvam;
- pravica do podpore služb, katerih naloga je nuditi podporo žrtvam kaznivih dejanj.

**Pravica do sodelovanja v kazenskem postopku vključuje naslednje pravice:**

- pravico do zaslišanja;
- pravico zahtevati presojo odločitve (tožilca), da se ne izvede pregon (razen, če ima takšna odločitev za posledico zunajsodno poravnavo v skladu z zakonom);
- pravico do zaščitnih ukrepov v okviru storitev poravnalne pravičnosti - država mora sprejeti ukrepe za varovanje žrtev pred sekundarno in ponovno viktimizacijo, ustrahovanjem in maščevanjem;
- pravico do pravne pomoči, kadar imate status stranke v kazenskem postopku;
- pravico do vračila premoženja, ki je zaseženo med kazenskim postopkom, razen če je to premoženje potrebno za namene kazenskega postopka;
- pravico, da med kazenskim postopkom pridobite odločitev o odškodnini, katere plačilo se naloži storilcu (razen če zakonodaja določa, da se o tem odloči v drugem postopku);
- če imate prebivališče v drugi državi članici, ki ni država, v kateri je bilo storjeno kaznivo dejanje, imate pravico vložiti prijavo kaznivega dejanja pri pristojnih organih države članice, kjer prebivate, če tega ne morete storiti v državi članici, kjer je bilo storjeno kaznivo dejanje; ali če tega ne želite storiti - v primeru resnega kaznivega dejanja.

**Pravica do zaščite vključuje naslednje pravice:**

- pravico do zaščite pred sekundarno in ponovno viktimizacijo, ustrahovanjem in maščevanjem, vključno z zaščito pred tveganjem povzročitve čustvene ali psihološke škode, in zaščito dostojanstva žrtev med zaslišanjem in pričanjem;
- pravico do izogibanja stiku s storilcem kaznivega dejanja;
- pravica do zaščite med kazensko preiskavo;
- pravico do varstva zasebnosti;
- pravico do posebne zaščite v kazenskem postopku, če ste otrok.

**Pomoč in podpora**

V Sloveniji za takojšnjo pomoč pokličite policijo na številko za klic v sili 113.

Anonimni klici so mogoči na številko policije 080-1200.

Strokovno podporo žrtvam kaznivih dejanj izvajajo **centri za socialno delo (CSD)**. Namen podpore je pomagati žrtvam, da se izboljša njihov psihološki, socialni in finančni položaj, ki je nastal zaradi kaznivega dejanja. CSD žrtvam v skladu z njihovimi individualnimi potrebami svetuje in jih usmeri v oblike pomoči in storitve, ki so na voljo. Kontaktne podatke CSD najdete TUKAJ.

Poleg CSD podporo žrtvam kaznivih dejanj nudijo tudi nekatere nevladne organizacije. Kontakte nekaterih od njih najdete TUKAJ.

Žrtve se lahko obrnejo tudi na zdravstveno osebje (osnovne informacije o zdravstvenih ustanovah: http://ustanove.zdravstvena.info)

Če menijo, da so jim bile kršene pravice, se lahko žrtve kaznivih dejanj obrnejo na Varuha človekovih pravic na brezplačni telefonski številki **080 15 30** ali pišejo na: info(at)varuh-rs.si

### *3.2. Pravice slovenskih državljanov, ki so žrtve kaznivih dejanj*

**Kdo je žrtev kaznivega dejanja?**

V slovenskem kazenskem postopku se za žrtev kaznivega dejanja uporablja izraz »oškodovanec«.

**Oškodovanec ali oškodovanka** je tista oseba, ki ji je bila s kaznivim dejanjem kršena osebna ali premoženjska pravica. Žrtev je torej oseba, ki je utrpela škodo, vključno s fizično, duševno ali čustveno škodo ali ekonomsko izgubo, ki jo je neposredno povzročilo kaznivo dejanje.

Če žrtev zaradi kaznivega dejanja umre, so žrtve tudi njeni **družinski člani**, ki so zaradi smrti žrtve utrpeli škodo. Pod družinske člane se štejejo zakonec oziroma zunajzakonski partner žrtve, njeni krvni sorodniki v ravni vrsti (na primer starši in otroci), njen posvojenec ali posvojitelj, njeni bratje in sestre ter osebe, ki jih je preživljala oziroma jih je bila dolžna preživljati.

Nekateri **oškodovanci in oškodovanke potrebujejo posebno zaščito.** Posebno zaščito potrebujejo, če so zaradi kaznivega dejanja utrpeli veliko škodo in zaradi različnih okoliščin potrebujejo posebno varstvo. Te okoliščine so lahko:

- Oškodovanci in oškodovanke imajo sami nekatere značilnosti, zaradi katerih so lahko v nekaterih okoliščinah posebej ranljivi (na primer starost, bolezen,…);
- Narava, teža ali okoliščine kaznivega dejanja (na primer, kadar gre za hudo kaznivo dejanje, ki je oškodovanca ali oškodovanko zelo prizadelo);
- So obdolženci ali oškodovanec ali oškodovanka v predkazenskem in kazenskem postopku in izven njega ravnali na določen način (na primer, kadar je obdolženec oškodovancu ali oškodovanki grozil).

Takrat rečemo, da **obstaja posebna potreba po varstvu oškodovančeve ali oškodovankine osebnostne celovitosti** pri posameznih dejanjih v predkazenskem in kazenskem postopku.

**NA KOGA SE LAHKO OBRNEM, KADAR POSTANEM ŽRTEV?**
V Sloveniji za takojšnjo pomoč pokličite policijo na številko za klic v sili **113**.
Anonimni klici so mogoči na številko policije **080-1200**.
Strokovno podporo žrtvam kaznivih dejanj izvajajo **centri za socialno delo (CSD)**. Namen podpore je pomagati žrtvam, da se izboljša njihov psihološki, socialni in finančni položaj, ki je nastal zaradi kaznivega dejanja. CSD žrtvam v skladu z njihovimi individualnimi potrebami svetuje in jih usmeri v oblike pomoči in storitve, ki so na voljo. Kontaktne podatke CSD najdete TUKAJ.
Poleg CSD podporo žrtvam kaznivih dejanj nudijo tudi nekatere nevladne organizacije. Kontakte nekaterih od njih najdete TUKAJ.
Žrtve se lahko obrnejo tudi na zdravstveno osebje (osnovne informacije o zdravstvenih ustanovah: http://ustanove.zdravstvena.info)
Če menijo, da so jim bile kršene pravice, se lahko žrtve kaznivih dejanj obrnejo na Varuha človekovih pravic na brezplačni telefonski številki **080 15 30** ali pišejo na: info(at)varuh-rs.si

## PRAVICE ŽRTEV KAZNIVH DEJANJ

Če ste postali žrtev kaznivega dejanja, vam v skladu z Direktivo o pravicah žrtev kaznivih dejanj in Zakonom o kazenskem postopku pripadajo določene pravice.

Kot žrtev imate pravice, tudi če storilec kaznivega dejanja niso odkrili, prijeli, kazensko preganjali ali obsodili zaradi kaznivega dejanja.

Nekatere pravice vam pripadajo, tudi če ne prijavite kaznivega dejanja – na primer pravica do informacij in pravica do strokovne podpore in svetovanja.

Nekatere pravice pa so povezane z vašim sodelovanjem v kazenskem postopku.

**Vsi organi (policija, tožilstvo, sodišče in drugi organi, izvedenci, tolmači) so z vami dolžni ravnati posebej skrbno in obzirno.**

### I. Zagotavljanje informacij in pomoči

1. PRAVICA DO INFORMACIJ

Kot žrtev imate že od prvega stika z organom (policijo, državnim tožilstvom, sodiščem) pravico do informacij:

- o vrsti pomoči, ki jo lahko dobite, in od koga – na primer o brezplačni zdravstveni, psihološki in drugi pomoči in podpori;
- če ste žrtev nasilja v družini - o pomoči in ukrepih po zakonu, ki ureja preprečevanje nasilja v družini;
- o tem, kako lahko prijavite kaznivo dejanje, kako bodo ti postopki potekali in o vaši vlogi v njih;

- o tem, kako in pod kakšnimi pogoji lahko uveljavite ukrepe, ki vam bodo pomagali zagotoviti vašo varnost;
- o tem, da je možno prikriti podatek o vašem naslovu ali prebivališču pred drugimi udeleženci postopka;
- o tem, kako in pod kakšnimi pogoji imate lahko dostop do pravnega svetovanja, pravne pomoči in katerih koli drugih nasvetov;
- o tem, kako in pod kakšnimi pogoji lahko prejmete odškodnino za škodo, ki vam je nastala s kaznivim dejanjem;
- kako in pod kakšnimi pogoji ste upravičeni do tolmačenja in prevajanja;
- o postopkih za vložitev pritožb, ki so na voljo, kadar pristojni organi ne spoštujejo vaših pravic v okviru kazenskega postopka;
- o kontaktnih podatkih osebe pristojnega organa, s katero lahko komunicirate o svoji zadevi (v kateri fazi je, o tem, kaj je bilo v postopku odločeno);
- o postopkih poravnave, ki so na voljo (alternativno reševanje sporov); in o tem,
- kako in pod katerimi pogoji se vam lahko povrnejo stroški, ki ste jih imeli zaradi sodelovanja v kazenskem postopku.

Pravico do informacij imajo vse žrtve – tudi tiste, ki kaznivega dejanja (še) niso formalno prijavile.

Za informiranje žrtev kaznivih dejanj o njihovih pravicah je na voljo informativna brošura. Več o tem na https://www.gov.si/assets/ministrstva/MP/obrazci-odskodnine-zrtvam/Publikacije-pravice-zrtev-KD/Pravice-zrtev-v-kazenskem-postopku-slo.pdf

2. PRAVICA RAZUMETI IN BITI RAZUMLJEN

Organi so dolžni poskrbeti, da kot žrtev informacije razumete. Zato so dolžni informacije podajati v preprostem in dostopnem jeziku, tako pisno kot ustno. Pri tem morajo upoštevati tudi morebitne okoliščine na strani žrtve, ki lahko vplivajo na njihovo sposobnost razumeti.

- PRISOTNOST ZAUPNE OSEBE

Kot žrtvi vam mora biti omogočeno, da vas v postopku spremlja oseba, ki si jo sami izberete, da vam pomaga pri razumevanju informacij ali vam pomaga, da bi vas drugi razumeli.

Zaupna oseba je lahko kdorkoli, ki mu zaupate (npr. prijatelj, sorodnik, predstavnik nevladne organizacije, ipd.).

Organ lahko prisotnost zaupne osebe zavrne, če to ne bi bilo v vašo korist ali pa bi to oviralo uspešno izvedbo postopka (na primer, če je oseba, ki ste si jo izbrali, hkrati tudi priča v vašem postopku).

3. PRAVICE OB PRIJAVI KAZNIVEGA DEJANJA

Kot žrtev imate pravico, da prejmete pisno potrdilo o tem, da ste kaznivo dejanje prijavili pristojnemu organu (policiji, državnemu tožilstvu). V potrdilu morajo biti poleg vaših osebnih podatkov tudi podatki o kaznivem dejanju in škodi, ki vam je z njim nastala. Potrdilo o prijavi je lahko tudi kopija ovadbe, če vsebuje vse te elemente.

- JEZIKOVNA POMOČ

Žrtvam, ki ne razumejo jezika, v katerem teče postopek, lahko ob prijavi kaznivega dejanja nudi jezikovno pomoč tudi oseba, ki ni tolmač, in ki poleg jezika postopka razume oziroma govori tudi jezik, ki ga razume oziroma govori žrtev. Pomembno je, da ta oseba spoštuje zasebnost podatkov, za katere pri nudenju jezikovne pomoči izve. Jezikovne pomoči ne more nuditi oseba, ki bi lahko bila kasneje v postopku priča ali pa iz drugih razlogov ne bi bila primerna.

4. PRAVICA DO INFORMACIJ O SVOJEM PRIMERU

Kot žrtev imate pravico prejeti informacije o svojem primeru. S to pravico vas morajo seznaniti. Lahko prejmete informacije o tem, v kateri fazi je postopek, o kraju in času sojenja ter o morebitni odločitvi, da se preiskava ali ne nadaljuje oziroma se konča ali da storilca ne bodo kazensko preganjali. Pravico imate tudi do informacij o vsaki pravnomočni sodbi v postopku.

Pravico imate do podatkov kontaktne osebe pri organu, s katero lahko komunicirate o poteku postopka.

Žrtve kaznivih dejanj lahko informacije o poteku, fazi in zaključku predkazenskega postopka (ki teče pri policiji) pridobijo tudi preko spletnega obrazca, ki je dostopen na https://www.policija.si/apps/obvescanje_oskodovancev/form.php.

5. PRAVICA DO TOLMAČENJA IN PREVAJANJA

Kot žrtev imate pravico v postopkih uporabljati svoj materni jezik oz. jezik, ki ga razumete. Če ne razumete ali govorite jezika, v katerem teče postopek, imate pravico do brezplačnega tolmačenja tistega kar vi ali drugi govorijo. Prav tako imate pravico do prevajanja dokumentov, ki vsebujejo za vas bistvene informacije.

Za žrtve bistvene informacije so vabila, vse informacije oziroma odločitve organov, ki pomenijo prenehanje oziroma konec kazenskega postopka v vaši zadevi, pa tudi sodbe in pouki o tem, da imate pravico prevzeti kazenski pregon, če državni tožilec pregon opusti ali pa ga ne začne.

Na vaš predlog pa lahko sodišče zagotovi tolmačenje in prevajanje tudi drugih dokumentov in dejanj, če je to potrebno za uresničevanje vaših pravic.

### 6. PRAVICA DO DOSTOPA DO PODPORNIH STORITEV IN PODPORE

Kot žrtev imate pravico do dostopa do brezplačnih, zaupnih podpornih storitev, ki so vam voljo pred postopkom, med njim in ustrezno obdobje po njem.

Strokovno podporo žrtvam kaznivih dejanj izvajajo **centri za socialno delo (CSD)**. Namen podpore je pomagati žrtvam, da se izboljša njihov psihološki, socialni in finančni položaj, ki je nastal zaradi kaznivega dejanja. CSD žrtvam v skladu z njihovimi individualnimi potrebami svetuje in jih usmeri v oblike pomoči in storitve, ki so na voljo. Kontaktne podatke CSD najdete TUKAJ.

Poleg CSD podporo žrtvam kaznivih dejanj nudijo tudi nekatere nevladne organizacije. Kontakte nekaterih od njih najdete TUKAJ.

Žrtve se lahko obrnejo tudi na zdravstveno osebje (osnovne informacije o zdravstvenih ustanovah: http://ustanove.zdravstvena.info)

## II. SODELOVANJE V KAZENSKEM POSTOPKU

### 1. VLOGA ŽRTVE V KAZENSKEM POSTOPKU

Žrtev ima kot oškodovanec ali oškodovanka v kazenskem postopku poseben položaj.

Kot žrtev - oškodovanec oziroma oškodovanka imate pravico, da med preiskavo opozorite na vsa pomembna dejstva ter okoliščine. Predlagate lahko dokaze, ki so pomembni za to, da se kaznivo dejanje razišče, da se najde storilca kaznivega dejanja in da lahko uveljavite svojo pravico do odškodnine zaradi škode, ki ste jo utrpeli zaradi kaznivega dejanja.

Med sojenjem imate pravico predlagati dokaze, postavljati obdolžencu, pričam in izvedencem vprašanja, dajati pripombe in pojasnila glede svojih izjav in postavljati druge predloge.

Tako v času preiskave kot tekom sojenja imate pravico pregledovati sodne spise in zbrane dokaze. To pravico vam sodnik lahko odreče, dokler niste zaslišani kot priča.

### 2. PRAVICA DO ZASLIŠANJA

V kazenskem postopku imate kot žrtev pravico biti slišani ter predložiti dokaze. Omogočeno vam mora biti, da izrazite svoje poglede in stališča. Za žrtve, ki to potrebujejo, so na voljo zaščitni ukrepi med zaslišanjem.

- ZAŠČITNI UKREPI MED ZASLIŠANJEM

Pri zaslišanju **mladoletnih žrtev in žrtev s posebnimi potrebami po zaščiti** je treba ravnati posebej obzirno (več informacij o žrtvah s posebnimi potrebami po zaščiti najdete pod točko III.3 tega dokumenta). Če je potrebno, se zaslišanje opravi s pomočjo ustreznega strokovnjaka. Pri zaslišanju je lahko navzoča oseba, ki ji žrtev zaupa. Zaslišanje se lahko opravi v posebej prilagojenih prostorih.

V sodni preiskavi nekaterih žrtev ne smejo zaslišati v prisotnosti obdolženca. Obdolženec ne sme biti prisoten pri zaslišanju žrtve, ki je mlajša od 15 let in je bila žrtev kaznivih dejanj zoper spolno nedotakljivost, kaznivega dejanja zanemarjanja mladoletne osebe in surovega ravnanja ali kaznivega dejanja trgovine z ljudmi.

Zaslišanje teh žrtev se vedno zvočno ali zvočno-slikovno posname, saj njihovo zaslišanje na glavni obravnavi ni dopustno in se le prebere zapisnik o zaslišanju žrtve iz preiskave. Po potrebi sodišče to omogoči tudi za druge mladoletne žrtve in žrtve s posebnimi potrebami po zaščiti.

**Žrtve lahko zahtevajo, da se podatek o njihovem naslovu ali prebivališču ne razkrije obdolžencu ali drugim osebam.**

Prikrijejo se lahko tudi drugi osebni podatki žrtve ali pa se žrtvi določi psevdonim (izmišljeno ime). To je včasih potrebno za zaščito žrtve ali njenih bližnjih. V takšnih primerih je treba zaslišanje izvesti tako, da se osebni podatki ali identiteta žrtve zaščitijo. Na primer, zaslišanje se lahko opravi s pomočjo zaščitne stene, naprave za popačenje glasu, prenosa zvoka iz posebnega prostora in podobno.

Zaslišanje je možno tudi z uporabo sodobnih tehničnih sredstev za prenos slike in glasu (videokonferenca). To je na voljo, kadar žrtev potrebuje posebne zaščitne ukrepe, da se ne sreča z obdolžencem (ne pride z obdolžencem v stik). To je posebej pomembno za zaščitene priče, anonimne priče, priče, ki se nahajajo v tujini, pa tudi priče, ki zaradi drugih upravičenih razlogov ne morejo priti k organu.

Med zaslišanjem žrtve se z namenom varovanja njene zasebnosti lahko izključi javnost, kar pomeni, da so v prostoru poleg strank postopka lahko prisotne le posamezne uradne osebe, ne smejo biti pa prisotni predstavniki javnosti kot so na primer novinarji.

Žrtve ščitijo tudi zakonske določbe, ki na splošno veljajo za zaslišanje prič:

- Sodnik prepove vprašanje ali odgovor priči (žrtvi), če to ni povezano s primerom. Tako se prepreči nepotrebno zasliševanje zvezi z zasebnim življenjem žrtve, ki ni povezano s kaznivim dejanjem;
- Žrtev (oz. vsaka priča) lahko odkloni zaslišanje, oziroma je oproščena pričanja, če je v sorodu z obdolžencem (njegov zakonec, zunajzakonski partner/ica, mati ali oče, stara mati ali stari oče, otrok, posvojitelj, posvojenec, vnukinja ali vnuk ali kakšen drug bližnji sorodnik). Enako velja, če je žrtev zaradi svojega poklica dolžna varovati uradne ali vojaške tajnost ali ne sme posredovati podatkov, ki jih je izvedela med opravljanjem svojega poklica.
- Žrtev (oz. vsaka priča) ima pravico, da na posamezna vprašanja ne odgovori. To lahko stori, če bi lahko z odgovorom na posamezno vprašanje spravila sebe ali svojega bližnjega sorodnika v hudo sramoto, znatno materialno škodo ali v kazenski pregon.

## 3. PRAVICE, KO SE DRŽAVNI TOŽILEC ODLOČI, DA KAZNIVEGA DEJANJA NE BO PREGANJAL

Pregon zoper storilca kaznivega dejanja prične in vodi državni tožilec. Če državni tožilec oceni, da ni pogojev za to, da bi storilca kazensko preganjal, vas mora o tem obvestiti. Državni tožilec vas mora o tem obvestiti v osmih dneh in vam hkrati pojasniti, da lahko pregon začnete sami. Poučiti vas mora tudi, kaj lahko storite, da boste to pravico uresničili.

Če državni tožilec prične pregon, pa potem od njega odstopi, vas mora o tem obvestiti sodišče.

Če državni tožilec ne prične pregona ali pa od pregona odstopi, vi pa se potem odločite, da boste pregon prevzeli oz. nadaljevali sami, morate to storiti v tridesetih dneh, odkar ste prejeli sporočilo državnega tožilca oz. sodišča. S to odločitvijo boste postali oškodovanec_ka kot tožilec_ka in s tem pridobili vse pravice v postopku, ki jih ima sicer državni tožilec (razen tistih, ki jih ima državni tožilec kot državni organ). Pregon v tem primeru vodite vi kot žrtev, kar pa od vas zahteva precejšnjo angažiranost, tako v smislu časa kot tudi kritja stroškov postopka.

## 4. PRAVICA DO ZAŠČITNIH UKREPOV V OKVIRU PORAVNALNE PRAVIČNOSTI

Državni tožilec lahko ovadbo ali obtožni predlog za kaznivo dejanje odstopiti v postopek poravnavanja. To sme storiti, kadar gre za kaznivo dejanje, za katero je predpisana denarna kazen ali zapor do treh let ter za nekatera druga kazniva dejanja. **Vendar pa se sme poravnavanje izvajati le s pristankom oškodovanca ali oškodovanke (žrtve).**

Poravnavanje vodi poravnalec, ki ga imenuje državno tožilstvo. Poravnalec si mora prizadevati, da je vsebina sporazuma, do katerega poravnavanje privede, v sorazmerju s težo in posledicami dejanaj.

Če je postopek poravnavanja uspešen in storilec izpolni vsebino sporazuma (npr. opravi družbeno koristno delo), bo državni tožilec ovadbo zavrgel, žrtev pa potem ne bo imela pravice pregona prevzeti sama.

V postopkih poravnavanja imajo žrtve pravico do varstva pred sekundarno in ponovno viktimizacijo, pred ustrahovanjem in pred maščevanjem. O sekundarni viktimizaciji govorimo, kadar žrtev utrpi dodatno škodo, ki ni neposredna posledica kaznivega dejanja, temveč je posledica ravnanja institucij in drugih posameznikov z žrtvijo. Sekundarno viktimizacijo lahko na primer povzročijo ponavljajoči se stiki žrtve s storilcem ali pa ponavljajoče se zasliševanje o istih dejstvih, neprimeren jezik ali neobčutljive pripombe vseh, ki pridejo v stik z žrtvijo. V postopkih poravnavanja morajo vsi, ki v njem sodelujejo, preprečiti, da bi do tega prišlo.

Zakon o preprečevanju nasilja v družini pa celo prepoveduje alternativno reševanje sporov (torej tudi poravnavanje med žrtvijo in povzročiteljem nasilja) v vseh postopkih, ki se vodijo zaradi vseh oblik nasilja.

## 5. PRAVICA DO ODVETNIKA IN PRAVNE POMOČI

Kot žrtev imate pravico, da vas v predkazenskem in kazenskem postopku zastopa pooblaščenec, ki je lahko odvetnik.

Če ste mladoletni in ste žrtev kaznivih dejanj zoper spolno nedotakljivost, kaznivega dejanja zanemarjanja mladoletne osebe in surovega ravnanja ali kaznivega dejanja trgovine z ljudmi, morate imeti pooblaščenca ves čas kazenskega postopka. Če ga nimate, vam ga mora sodišče postaviti po uradni dolžnosti.

Pravico imate do brezplačne pravne pomoči, kadar izpolnjujete pogoje, ki jih določa Zakon o brezplačni pravni pomoči (ZBPP). V skladu s tem zakonom se brezplačna pravna pomoč lahko dodeli osebi, ki si glede na svoj materialni položaj in glede na materialni položaj svoje družine (dohodke in premoženje) ne more privoščiti, da bi sama plačala stroške sodnega postopka oziroma stroške pravne pomoči.

Vendar pa je brezplačna pravna pomoč žrtvam na voljo šele v fazah postopka, ki potekajo pred sodiščem. V postopku pri policiji brezplačna pravna pomoč žrtvam ni možna.

## 6. PRAVICA DO POVRAČILA STROŠKOV

Kot žrtvi vam v kazenskem postopku lahko nastanejo stroški.

Če ste zaslišani kot priča, imate pravico do povrnitve stroškov, ki so vami nastali zaradi pričanja. Povračilo lahko pokrije potne stroške, stroške za hrano in nastanitev in stroške zaradi odsotnosti z dela ali izgube dobička. Organi so vas dolžni opozoriti na to pravico, vi pa morate zahtevek za povračilo (ustno) podati takoj po zaslišanju.

Med stroške postopka spadajo tudi stroški vašega pooblaščenca (če ga imate), vendar pa načeloma velja, da nagrado in izdatke pooblaščenca krijete sami. Izjemoma krije stroške pooblaščenca proračun – če vam je pooblaščenca po uradni dolžnosti postavilo sodišče in bi plačilo teh stroškov ogrozilo vaše preživljanje ali pa če vam je bila odobrena brezplačna pravna pomoč.

## 7. PRAVICA DO ODŠKODNINE

Kot žrtev lahko v kazenskem postopku zahtevate odškodnino. To naredite tako, da vložite **predlog za uveljavitev premoženjskopravnega zahtevka**. Predlog lahko vložite:

- pri policiji;
- državnem tožilcu skupaj z ovadbo kaznivega dejanja;
- ali pri sodišču, pred katerim teče postopek.

Organi so vas dolžni na to pravico opozoriti. V predlogu morate natančno povedati, kaj zahtevate: katera škoda naj se vam povrne in njena višina. Predložiti morate tudi ustrezne dokaze, ki so pomembni za vaš zahtevek (npr. zdravniška potrdila, dokumenti, ki izkazujejo lastništvo odvzetega premoženja, ipd.).

Sodišče lahko odloči, da ne bo obravnavalo vašega premoženjskopravnega zahtevka, če je prezapleten in bi to preveč zavleklo kazenski postopek. V tem primeru vas bo sodišče napotilo, da svoj zahtevek uveljavljate v pravdi, kar pomeni, da vložite civilno tožbo zoper obdolženca.

Pod določenimi pogoji pa odškodnino lahko zahtevate tudi na podlagi Zakona o odškodnini žrtvam kaznivih dejanj. Pravico na tej podlagi imajo žrtve nasilnih naklepnih dejanj in njihovi svojci (če je umrla žrtev preživljala oz. jih je bila dolžna preživljati). Zahtevek za odškodnino je potrebno podati v 6 mesecih od storitve dejanja. Pogoji za dodelitev odškodnine pa so (med drugim):

- da je bilo dejanje zaznano (na primer, da je bila z njim seznanjena policija ali državni tožilec)

- da je zaradi dejanja žrtev utrpela telesno poškodbo, okvaro zdravja ali duševne bolečine in da je bila žrtvi z dejanjem storjena škoda, priznana z zakonom.

Pravico do odškodnine imajo v vsakem primeru mladoletne žrtve, osebe z ovirami ter žrtve nasilja v družini.

Sicer pa je pogoj za odškodnino na podlagi Zakona o odškodnini žrtvam kaznivih dejanj, da obstaja verjetnost, da storilec dejanja ne bo mogel izplačati odškodnine. Domneva se, da odškodnine ne bo mogel izplačati, kadar storilec ostane neznan tri mesece od zaznave ali naznanitve dejanja in se ga do odločanja komisije (ki je pristojna za odločanje o odškodnini) ne odkrije.

Zahtevo za odškodnino mora žrtev nasloviti na Komisijo za odškodnine žrtvam kaznivih dejanj pri Ministrstvu za pravosodje.

### 8. PRAVICA DO PRITOŽBE ZOPER SODBO

Kot žrtev (oškodovanec ali oškodovanka) se lahko pritožite zoper sodbo, s katero sodišče oprosti obdolženca ali pa zavrne obtožbo. Zoper obsodilno sodbo s katero sodišče obdolženca spozna za krivega kaznivega dejanja, se lahko pritožite le glede odločitve sodišča o vašem premoženjskopravnem (odškodninskem) zahtevku, objavi pravnomočne sodbe in odločbe o stroških. Kadar žrtev prevzame pregon (oškodovanec kot tožilec), lahko izpodbija sodbo iz vseh pritožbenih razlogov.

## III. ZAŠČITA ŽRTEV

### 1. PRAVICA DO ZAŠČITE

Kot žrtvi vam morajo biti na voljo ukrepi za zaščito vas in vaših družinskih članov pred sekundarno in ponovno viktimizacijo, pred ustrahovanjem in pred maščevanjem.

O sekundarni viktimizaciji govorimo, kadar žrtev utrpi dodatno škodo, ki ni neposredna posledica kaznivega dejanja, temveč je posledica ravnanja institucij in drugih posameznikov z žrtvijo. Sekundarno viktimizacijo lahko na primer povzročijo ponavljajoči se stiki žrtve s storilcem ali pa ponavljajoče se zasliševanje o istih dejstvih, neprimeren jezik ali neobčutljive pripombe vseh, ki pridejo v stik z žrtvijo.

V postopku morajo vsi, ki v njem sodelujejo, preprečiti, da bi do tega prišlo.

Pravica do zaščite torej pomeni tudi zaščito pred tem, da bi vam bila povzročena čustvena ali psihološka škoda. Poskrbljeno mora biti za varovanje vašega dostojanstva med zasliševanjem in pričanjem. Potrebno je zagotoviti, da se zaslišanja opravijo brez neutemeljenih zamud; da je število zaslišanj žrtev čim manjše; da žrtve lahko spremljata njihov pravni zastopnik in oseba po njihovi izbiri, in da so zdravstveni pregledi so čim bolj omejeni in se izvedejo le, če so nujno potrebni za namene kazenskega postopka.

Več o možnih ukrepih za vašo zaščito med zaslišanjem si lahko preberete **pod točko II.2 tega dokumenta**.

## 2. PRAVICA DO IZOGIBANJA STIKU MED ŽRTVIJO IN STORILCEM

Kot žrtev imate pravico, da se izognete stiku s storilcem kaznivega dejanja v prostorih, kjer poteka kazenski postopek, razen če je to nujno potrebno za izvedbo postopka.

Temu lahko služijo tudi zaščitni ukrepi med zaslišanjem - več o možnih ukrepih za vašo zaščito med zaslišanjem si lahko preberete **pod točko II.2 tega dokumenta**.

## 3. INDIVIDUALNA OCENA ŽRTEV IN ŽRTVE S POSEBNIMI POTREBAMI PO ZAŠČITI

Organi morajo vsako žrtev individualno oceniti, da bi ugotovili njene posebne potrebe po zaščiti ter katere zaščitne ukrepe bi bilo primerno uporabiti, da bi žrtev zaščitili.

Pri individualni oceni je potrebno upoštevati zlasti osebne značilnosti žrtve (kot so starost, zdravstveno stanje in morebitne oviranosti).

Upoštevati je treba tudi vrsto ali naravo kaznivega dejanja ter okoliščine kaznivega dejanja. Posebno pozornost je zato potrebno nameniti:

- Žrtvam, ki so utrpele veliko škodo zaradi resnosti kaznivega dejanja;
- žrtvam kaznivega dejanja, zagrešenega zaradi predsodkov ali diskriminacije;
- in žrtvam, ki so zaradi odnosa s storilcem in odvisnosti od njega posebej ranljive (npr. žrtve nasilja v družini).

Šteje se, da imajo otroci, ki so žrtve kaznivih dejanj, vedno posebne potrebe po zaščiti.

Individualno oceno pripravi policija že ob prvem stiku z žrtvijo in jo nato po potrebi posodablja. Policija je za individualno oceno pristojna do vložitve kazenske ovadbe na pristojno državno tožilstvo. V nadaljevanju postopka je za posodabljanje individualne ocene pristojno državno tožilstvo.

Zaradi izdelave individualne ocene lahko policija in tožilstvo žrtev tudi povabita na pogovor. Lahko pa pridobita in preučita tudi mnenje pristojnega centra za socialno delo.

4. ZAŠČITNI UKREPI

Če sta policija ali državno tožilstvo na podlagi individualne ocene ugotovila, da ste žrtev s posebnimi potrebami po zaščiti, so vam na voljo zaščitni ukrepi pod pogoji, ki jih opredeljuje zakon.

Na voljo so vam **zaščitni ukrepi med zaslišanjem**. Več o možnih ukrepih za vašo zaščito med zaslišanjem si lahko preberete **pod točko II.2 tega dokumenta**.

Na voljo pa so vam tudi drugi zaščitni ukrepi:

- **Odreditev pripora ali hišnega pripora -** Če je obdolženec nevaren, in obstaja verjetnost, da bo oviral potek kazenskega postopka s tem, da bo vplival na priče ali če obstaja nevarnost, da bo ponovil kaznivo dejanje, dokončal poskušeno kaznivo dejanje ali storil kaznivo dejanje, s katerim grozi, bo sodišče zanj na predlog državnega tožilca odredilo pripor ali hišni pripor.

- **Obveščanje o izpustitvi oziroma pobegu osumljenca ali obdolženca iz hišnega pripora ali pripora oziroma zapora** – kot žrtev lahko zaradi zagotavljanja svoje osebne varnosti zaprosite za obveščanje o izpustitvi oziroma pobegu osumljenca ali obdolženca iz hišnega pripora ali pripora oziroma zapora. S to pravico vas mora ob prvem stiku v predkazenskem ali kazenskem postopku seznaniti pristojni organ. O pobegu oziroma izpustitvi vas bo obvestila policija ali sodišče.

- **Prepoved približevanja in zaščitni ukrepi za žrtve nasilja v družini** – če obstaja nevarnost, da bo povzročitelj ogrozil življenje, osebno varnost ali svobodo osebe, s katero je ali je bil v bližnjem razmerju, smejo policisti odrediti prepoved približevanja določenemu kraju oziroma osebi. Več o tem in o drugih ukrepih za žrtve nasilja v družini si preberite pod naslednjo točko (IV).
- V skladu z **Zakonom o zaščiti prič**, ki so žrtve zelo resnega kaznivega dejanja, kakršno je denimo ugrabitev, trgovanje z drogami ipd. so na voljo posebni varovalni ukrepi: fizično varovanje; preselitev, vključno s selitvijo v tujino; prirejeni osebni dokumenti; onemogočenje dostopa do osebnih podatkov; prikritje identitete; sprememba identitete; uporaba video-konference in telefonske konference; denarna in socialna podpora.

## IV. PRAVICE ŽRTEV NASILJA V DRUŽINI

1. Pravice žrtev nasilja v družini

Žrtve nasilja v družini imajo poleg pravic, ki pripadajo vsem žrtvam kaznivih dejanj, še posebne pravice, ki jih ureja **Zakon o preprečevanju nasilja v družini (ZPND)**. Zakon te pravice priznava žrtvam nasilja v družini ne glede na to, ali se proti povzročiteljem_icam vodi kazenski postopek ali ne.

**Zakon o preprečevanju nasilja v družini** ureja naslednje pravice žrtev:

- pravica do spremstva,
- pravica do varstva identitete žrtve in do varstva podatkov o žrtvi,
- pravica žrtve do informiranja,
- pravica do predlaganja izreka posebnih ukrepov za zagotovitev varnosti žrtve,
- (pravica do brezplačne pravne pomoči – ta pravica je vezana zgolj na postopke za izrek ukrepov po ZPND in za postopke glede urejanja družinskih razmerij, medtem ko je v kazenskem postopku žrtev upravičena do brezplačne pravne pomoči skladno s splošnimi pravili Zakona o brezplačni pravni pomoči).

Posebna obravnavo imajo žrtve nasilja v družini tudi po **Zakonu o odškodnini žrtvam kaznivih dejanj**, in sicer so te žrtve upravičene do odškodnine, ki je izplačana iz državnega proračuna, ne glede na to, ali bi odškodnino lahko plačal povzročitelj_ica in ne glede na to, ali je žrtev v kazenskem postopku priglasila premoženjskopravni zahtevek ali vložila odškodninsko tožbo.

**Pravica do spremstva:**

V kazenskem postopku ima žrtev nasilja pravico do spremstva osebe, ki ji zaupa. **Zakon o preprečevanju nasilja v družini** dodatno ureja pravico žrtve, da si lahko izbere spremljevalca_ko, ki jo lahko spremlja v vseh postopkih, povezanih z nasiljem, in v postopkih, kjer je udeležen_a povzročitelj_ica nasilja.

V praksi so ti postopki predvsem postopki za izrek ukrepov za preprečevanje nasilja v družini, kot jih predpisuje **Zakon o preprečevanju nasilja v družini** in pa postopki za urejanje družinskih razmerij (razveza zakonske zveze, pravna vprašanja glede vzgoje in varstva, stikov in preživnine, delitev skupnega premoženja), kazenski postopek in postopek o prekrških.

Zaupna oseba, ki žrtev spremlja, ji pomaga pri zaščiti njene integritete v postopkih pred organi in organizacijami, pomaga pri iskanju rešitev in nudi žrtvi psihično oporo. Za prisotnost zaupne osebe v postopkih zadostuje, da žrtev pred pričetkom postopka ali v postopku izjavi, da jo določena oseba spremlja in da želi, da je v postopku prisotna. Zaupna oseba torej ne potrebuje nobenega posebnega pooblastila za to, da sodišče dovoli njeno prisotnost, ampak zadostuje že izjava žrtve. Zaupna oseba, ki žrtev spremlja, je lahko vsaka polnoletna oseba, ki v postopku ni obravnavana kot povzročitelj_ica nasilja. To je lahko prijatelj_ica, družinski_a član_ica, svetovalec_ka ali član_ica

nevladne organizacije, kateremu žrtev zaupa. Pred izbiro spremljevalca_ke je dobro, da žrtev premisli o tem, ali bi spremljevalca_ko v postopku predlagala kot pričo, ker spremljevalec_ka osebe zaradi spremljanja postopka ne bo mogel_la biti zaslišan_a kot priča.

**Pravica do varstva identitete žrtve in do varstva podatkov o žrtvi:**

**Zakon o preprečevanju nasilja v družini** vključuje izrecne določbe o varstvu identitete in podatkov o žrtvi, namen teh določb pa je, da se z varovanjem osebnih podatkov žrtev zaščiti in da se ji omogoči varno okolje ter da se ščiti osebnostne pravice žrtve. Javnosti ne smejo biti posredovani podatki, na podlagi katerih bi bilo mogoče prepoznati žrtev ali njeno družino. Posredovanje podatkov je dopustno le, če polnoletna žrtev s tem izrecno soglaša in s tem ne izpostavlja otrok ali njihovih osebnih podatkov. Organi in organizacije ter nevladne organizacije kot poklicno skrivnost varujejo podatke o nastanitvi žrtve in njenih otrok ali drugih ukrepih za njihovo zaščito.

**Pravice žrtve do informiranja:**

Žrtve imajo pravico do informiranosti. Skladno z **Zakon o preprečevanju nasilja v družini** organi in organizacije ter nevladne organizacije zagotovijo, da žrtve prejmejo ustrezne in pravočasne informacije o razpoložljivih podpornih storitvah in pravnih sredstvih v jeziku, ki ga razumejo.

**Pravica do predlaganja izreka posebnih ukrepov za zagotovitev varnosti žrtve:**

Poleg določb kazenskega postopka, ki določajo, na kakšen način se lahko v predkazenskem in kazenskem postopku zaščiti žrtve, vsebujejo določbe glede zagotavljanja varnosti tudi drugi zakoni. Policija, ki je ob hudi ogroženosti žrtve običajno prva, ki pride v stik z žrtvijo in povzročiteljem_ico, lahko izreče ukrep, s katerim se povzročitelju_ici odredi prepoved približevanja določenemu kraju oziroma osebi, kar zajema tudi prepoved nadlegovanja po komunikacijskih sredstvih. Policija ta ukrep odredi, če je podan utemeljen sum, da je oseba storila kaznivo dejanje ali prekršek z znaki nasilja ali je bila zalotena pri takem kaznivem dejanju ali prekršku, in obstajajo razlogi za sum, da bo ogrozila življenje, osebno varnost ali svobodo osebe, s katero je ali je bila v bližnjem razmerju v smislu določb kazenskega zakonika in zakona, ki ureja preprečevanje nasilja v družini. Kršitelj_ica, ki mu je izrečena prepoved približevanja, mora kraj oziroma območje prepovedi takoj zapustiti, policistu_tki pa izročiti ključe prebivališča, v katerem živi skupaj z žrtvijo. Ta ukrep lahko policija izreče za 48 ur, odredbo o tem pa takoj pošlje v presojo preiskovalnemu_i sodniku_ci, ki lahko ukrep potrdi, spremeni ali razveljavi. Če prepoved približevanja določenemu kraju oziroma osebi preiskovalni_a sodnik_ca potrdi, lahko ukrep izreče za čas do 15 dni, pri čemer mora upoštevati začetek veljave ukrepa, kot ga je izrekla policija. Če obstajajo utemeljeni razlogi za sum, da bo kršitelj_ica nadaljeval_a z ogrožanjem tudi po preteku 15 dni, za katere je bila izrečena prepoved približevanja določenemu kraju oziroma osebi, lahko žrtev pred iztekom ukrepa predlaga preiskovalnemu_i sodniku_ci podaljšanje ukrepa iz prejšnjega

člena do 60 dni. Zoper odločbe preiskovalnega_e sodnika_ce se lahko oškodovanec_ka ali povzročitelj_ica pritožita v treh dneh na zunajobravnavni senat okrožnega sodišča.

Poleg zgoraj navedenih nalog policije mora ta na prošnjo žrtve zagotoviti žrtvi in njenemu spremljevalcu varnost ob vstopu v stanovanjske in druge prostore, v katerih žrtev prebiva oziroma jih ima v uporabi, da lahko iz njih vzame stvari, ki so potrebne za zagotavljanje njenih osnovnih življenjskih potreb in osnovnih življenjskih potreb njenih otrok ter stvari, ki jih potrebuje za opravljanje svojega dela.

**Zakon o preprečevanju nasilja v družini** pa ureja še ukrepe, ki jih lahko izreče sodišče za zagotovitev varnosti žrtve. Po 19. členu ZPND lahko sodišče povzročitelju_ici nasilja, ki je žrtev telesno poškodoval_a, ali ji je prizadejal_a škodo na zdravju, ali je drugače protipravno posegel_la v njeno dostojanstvo ali druge osebnostne pravice (ji je grozil_a, je protipravno vstopil_a v njeno stanovanje ali na delovno mesto, jo zasleduje ali nadleguje, objavlja osebne podatke o njej …), zlasti:

- prepove vstopiti v stanovanje, v katerem živi žrtev;

- prepove zadrževati se v določeni bližini stanovanja, v katerem živi žrtev;

- prepove zadrževati in približevati se krajem, kjer se žrtev običajno nahaja (na primer delovno mesto, šola, vrtec …);

- prepove navezovati stike z žrtvijo na kakršenkoli način, vključno s sredstvi za komuniciranje na daljavo in tudi prek tretjih oseb;

- prepove vzpostaviti vsakršno srečanje z žrtvijo;

- prepove objavljanje osebnih podatkov žrtve, dokumentov iz sodnih in upravnih spisov in osebnih zapisov, ki se nanašajo na žrtev.

Sodišče lahko ta ukrep izreče za največ 12 mesecev, sodišče pa lahko ukrep na predlog žrtve tudi večkrat podaljša, vendar vsakokrat za največ 12 mesecev.

Sodišče lahko tudi naloži povzročitelju_ici nasilja, ki živi ali je živel v skupnem gospodinjstvu z žrtvijo, da mora stanovanje v skupni uporabi prepustiti žrtvi v izključno uporabo v obsegu, kot ga je imel_a v uporabi sam_a. Povzročitelj_ica nasilja, ki mora žrtvi stanovanje prepustiti v izključno uporabo, mora opustiti vsa dejanja, ki bi utegnila otežiti ali ovirati takšno uporabo, žrtev pa v času izključne uporabe stanovanja nosi stroške rednega upravljanja stanovanja. Trajanje tega ukrepa je odvisno od tega, ali sta povzročitelj_ica in žrtev skupna lastnika ali solastnika stanovanja oziroma ali sta oba najemnika ali ne. Če povzročitelj_ica nasilja ni lastnik_ca, solastnik_ca ali skupni_a lastnik_ca stanovanja v skupni uporabi, sodišče časovno ne omeji trajanja ukrepa. Če sta sta žrtev in povzročitelj_ica nasilja solastnika ali skupna lastnika stanovanja v skupni uporabi ali če sta ga

skupaj najela, sodišče omeji trajanje ukrepa na največ 12 mesecev. Sodišče lahko trajanje ukrepa na predlog žrtve podaljša še za največ 12 mesecev. Če pa je povzročitelj_ica nasilja sam_a ali s tretjo osebo lastnik_ca, solastnik_ca ali skupni_a lastnik_ca stanovanja v skupni uporabi ali če ga je sam_a ali s tretjo osebo najel_a, sodišče omeji trajanje ukrepa na največ šest mesecev. Če žrtev v roku, ki ga določi sodišče, kljub skrbnemu prizadevanju ne more najti drugega primernega bivalnega prostora, lahko sodišče rok iz prejšnjega stavka na predlog žrtve izjemoma podaljša še za največ šest mesecev, razen če bi to povzročilo nesorazmerno težko breme za tretjo osebo.

Postopki za izrek ukrepov za zagotovitev varnosti žrtve se začnejo na predlog žrtve. Center za socialno delo lahko predlaga začetek postopka s soglasjem žrtve. Predlog za izrek ukrepov mora biti podan najpozneje v šestih mesecih, odkar je žrtev zadnjič utrpela nasilje.

### *3.3. Kazenski postopek – osnove*

Informacije o prijavi kazenivega dejanja in o kazenskem postopku

- **Kje in kako prijavim kaznivo dejanje?**

Kaznivo dejanje lahko prijavite na policiji ali na državnem tožilstvu.

To storite tako, da odidete na najbližjo policijsko postajo ali pisarno državnega tožilstva.

Kaznivo dejanje lahko prijavite tudi s klicem na intervencijsko številko **113**.

Če želite prijavo podati anonimno (ne želite, da bi policija zabeležila vaše podatke), lahko to storite na številki policije **080-1200**.

Pisno prijavo lahko pošljete policiji po pošti, lahko pa tudi preko spleta – e-naznanilo kaznivega dejanja. Preko spleta lahko oddate anonimno e-prijavo.

- **Kaj se zgodi, če si premislim in umaknem prijavo?**

Svojo prijavo policiji lahko tudi umaknete. V določenih primerih umik prijave ne vpliva na tek postopka. Kadar Kazenski zakonik določa, da se storilca določenega kaznivega dejanja preganja po uradni dolžnosti, mora policija preiskati okoliščine kaznivega dejanja, državni tožilec pa preganjati storilca ne glede na to, ali je žrtev podala prijavo ali pa jo je morda umaknila.

Kadar pa Kazenski zakonik določa, da se pregon storilca posameznega kaznivega dejanja prične na predlog oškodovanca, umik prijave ustavi preiskovanje kaznivega dejanja in pregon storilca.

Če boste umaknili prijavo potem, ko se je na sodišču že pričela glavna obravnava, boste najverjetneje morali plačati stroške postopka. Namreč, stroškov postopka vam sodišče ne bo zaračunalo le v primeru, če bo obdolženi (povzročitelj nasilja) izjavil, da bo on poravnal te stroške.

- **Kaj sledi prijavi kaznivega dejanja? (kratek opis postopka)**

**POLICIJA**

Po prijavi bo policija pričela preiskovati sum, da je bilo storjeno kaznivo dejanje. S tem namenom bodo zbirali različne informacije: od žrtev in drugih prič bodo zbirali izjave o tem kdaj, kje, kako je bilo storjeno dejanje in kdo ga je storil, ter odkrivali in zbirali druge dokaze. Ta faza postopka se imenuje **predkazenski postopek**.

O vseh ugotovitvah bo policija obvestila ⟶ **OKROŽNO DRŽAVNO TOŽILSTVO**.

**OKROŽNO DRŽAVNO TOŽILSTVO**

Okrožno državno tožilstvo usmerja delo policije v predkazenskem postopku. Na podlagi ugotovitev policije, okrožni državni tožilec lahko v zadevi sprejme več odločitev:

1. Vloži zahtevo za preiskavo ( ⟶ **PREISKOVALNI SODNIK**)

2. Vloži obtožnico brez predhodno opravljene preiskave (⟶ **)**.

3. **SODIŠČE**)

4. Se odloči, da ne bo vložil obtožnice oz. bo odstopil od pregona ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON)**

5. Odstopi ovadbo v ⟶ **POSTOPEK PORAVNAVANJA**

6. Odloži kazenski pregon ( ⟶ **ODLOG PREGONA**)

**PREISKOVALNI SODNIK**

Preiskovalni sodnik na podlagi zahteve državnega tožilca vodi **preiskavo**. V preiskavi na podlagi gradiva, ki sta ga predhodno zbrala policija in državno tožilstvo, preiskovalni sodnik dodatno razišče kaznivo dejanje in zbira dokaze. V preiskavi tudi zasliši obdolženca, priče in druge vpletene.

Na zaslišanje preiskovalni sodnik kot pričo lahko zasliši žrtev kaznivega dejanja. Žrtev se je vabilu sodišča dolžna odzvati in odgovarjati vprašanja.

Po zaključeni preiskavi državni tožilec oceni, ali zbrani dokazi zadoščajo za nadaljevanje postopka. V tem primeru vloži obtožnico (⟶ **)**.

**SODIŠČE**).

Lahko pa se odloči, da ne bo vložil obtožnice ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

## SODIŠČE

Če postane obtožnica pravnomočna (zoper njo obdolženec ni vložil ugovora ali je bil ugovor zavrnjen), se bo zoper obdolženca pričelo sojenje. Sodišče bo razpisalo enega ali več narokov, kamor bo povabilo stranke postopka (obdolženca, državnega tožilca in oškodovanca).

Ko bo obtožnica postala pravnomočna, bo sodnik bo najprej razpisal **predobravnavni narok**. To je poseben narok, na katerem se bo obdolženi lahko izjavil o svoji krivdi – krivdo bo priznal ali pa ne.

Če obdolženec krivdo prizna in sodišče priznanje sprejme, bo obdolženca spoznalo za krivega in opravilo narok, na katerem mu bo izreklo kazensko sankcijo (kazen), s tem bo sojenje obdolžencu končano.

Če obdolženi krivde ne prizna, bo sodišče opravilo **glavno obravnavo**, ki se lahko odvije na več narokih.

Na glavni obravnavi državni tožilec predstavi obtožnico, obdolženec poda svoj zagovor, sodišče pa izvede dokaze: zaslišanje prič (tudi žrtve), izvedencev, pregled dokaznih materialov (npr. fotografije, dokumente, itd.).

## SODBA

S sodbo sodišče odloči, ali je obdolženi storil kaznivo dejanje, ali je zanj kazensko odgovoren in o kazenski sankciji. Sodišče lahko sprejme sodbo na podlagi priznanja obdolženca na predobravnavnem naroku ali pa po opravljeni glavni obravnavi.

Sodbo sodnik razglasi na naroku. V 15 dneh, kadar je obtoženec v priporu, sicer pa v 30 dneh od razglasitve pa sodišče pripravi sodbo še v pisni obliki.

Zoper sodbo je možna pritožba. **Tudi žrtev se lahko pritoži zoper zavrnilno sodbo in oprostilno sodbo, ki jo izreče sodišče**. Zoper obsodilno sodbo se lahko pritoži glede odločitve sodišča o premoženjskopravnem zahtevku, objavi pravnomočne sodbe in odločbe o stroških. Kadar žrtev prevzame pregon (oškodovanec kot tožilec), lahko izpodbija sodbo iz vseh pritožbenih razlogov.

## MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON

Vedno, kadar se državni tožilec odloči, da dejanja ne bo preganjal (če meni, da ni pravne podlage za pregon storilca kaznivega dejanja, ki se preganja po uradni dolžnosti), mora o tem obvestiti oškodovanca/ko (žrtev). To mora storiti v osmih dneh in ga/jo hkrati poučiti kaj lahko stori, da bo to pravico uresničil/a.

Če se oškodovanec/ka odloči, da bo pregon prevzel/a oz. nadaljeval/a sam/a, mora to storiti v tridesetih dneh, odkar je prejel/a sporočilo državnega tožilca oz. sodišča. S to odločitvijo oškodovanec/ka postane oškodovanec/ka kot tožilec/ka in s tem pridobi vse pravice v postopku, ki jih ima sicer državni tožilec (razen tistih, ki jih ima državni tožilec kot državni organ). Pregon torej vodi oškodovanec/ka, kar od nje/ga zahteva angažma, tako v smislu časa kot tudi stroškov postopka. Če se oškodovanec odloči za to možnost, je priporočljivo, da si poišče strokovno pomoč (odvetnika).

Če državni tožilec prične pregon, pa potem od njega odstopi, mora o tem oškodovanca/ko obvestiti sodišče.

Če državni tožilec vloži obtožnico, sodišče pa odloči, da bo ustavilo postopek in s tem ne bo dopustilo sojenja, bo sodišče o tem obvestilo oškodovanca/ko. Ta ima pravico, da se zoper to odločitev sodišča pritoži. Če je pritožba uspešna, obstajata dve možnosti:

- Če se pritoži samo oškodovanec/ka, bo tako sam/a prevzel/a pregon;
- če se je zoper odločitev sodišča pritožil tudi državni tožilec, se bo postopek nadaljeval kot da ustavitve postopka ne bi bilo.

## POSTOPEK PORAVNAVANJA

Tožilec se lahko v določenih primerih odloči, da bo zadevo odstopil v postopek poravnavanja. To pomeni, da storilec ne bo ne obtožen ne obsojen za kaznivo dejanje, če bo postopek poravnavanja uspešen. Takšno odločitev lahko sprejme le v primeru kaznivih dejanj, za katera je kot sankcija predpisana denarna kazen ali kazen zapora do treh let.

Pri svoji odločitvi mora upoštevati vrsto in naravo dejanja, okoliščine, v katerih je bilo storjeno, osebnost storilca, njegovo predkaznovanost itd.

Postopek poravnavanja vodi neodvisen poravnalec, **vendar le s pristankom oškodovanca (žrtve)** in storilca.

Če se žrtev in storilec s poravnavanjem strinjata, se izpelje postopek v katerem se doseže sporazum, ki mora biti v sorazmerju s težo in posledicami kaznivega dejanja.

Osumljenec mora vsebino sporazuma izpolniti v določenem roku, ki ne sme biti daljši od treh mesecev.

Ko prejme obvestilo o izpolnitvi sporazuma, državni tožilec **ovadbo zavrže**.

Če tožilec na podlagi izpolnjenega sporazuma zavrže ovadbo, žrtev nima pravice prevzeti pregona ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

> Pri tem je pomembno poudariti, da Direktiva o pravicah žrtev zahteva, da država v takšnih postopkih zaščiti žrtve pred sekundarno in ponovno viktimizacijo, pred ustrahovanjem in pred maščevanjem. O sekundarni viktimizaciji govorimo, kadar žrtev utrpi dodatno škodo, ki ni neposredna posledica kaznivega dejanja, temveč je posledica ravnanja institucij in drugih posameznikov z žrtvijo. Sekundarno viktimizacijo lahko na primer povzročijo ponavljajoči se stiki žrtve s storilcem ali pa ponavljajoče se zasliševanje o istih dejstvih, neprimeren jezik ali neobčutljive pripombe vseh, ki pridejo v stik z žrtvijo.
> Zakon o preprečevanju nasilja v družini pa celo prepoveduje alternativno reševanje sporov (torej tudi poravnavanje med žrtvijo in povzročiteljem nasilja) v vseh postopkih, ki se vodijo zaradi vseh oblik nasilja.

**ODLOG PREGONA**

Državni tožilec sme pod določenimi pogoji odložiti kazenski pregon. To sme storiti le **s soglasjem oškodovanca/žrtve**. Hkrati je odloženi pregon možen le v primeru kaznivih dejanj, za katera je predpisana denarna kazen ali zapor do treh let, ter nekaterih drugih kaznivih dejanj, če to opravičujejo posebne okoliščine.

Pregon tožilec odloži, če je osumljenec pripravljen ravnati po navodilih državnega tožilca in izpolniti določene naloge. Te naloge so lahko: 1) odprava ali poravnava škode; 2) plačilo določenega prispevka v korist javne ustanove ali v dobrodelne namene ali v sklad za povračilo škode žrtvam kaznivih dejanj; 3) oprava kakšnega splošno koristnega dela; 4) poravnava preživninske obveznosti; 5) zdravljenje v ustreznem zdravstvenem zavodu; 6) obiskovanje ustrezne psihološke ali druge posvetovalnice; 7) upoštevanje prepovedi približevanja žrtvi, kakšni drugi osebi ali dostopa na posamezne kraje.

Če osumljenec v roku, ki ga določi državni tožilec, izpolni nalogo, se ovadba zavrže. To pomeni, da storilec ne bo ne obtožen ne obsojen za kaznivo dejanje.

Če tožilec na podlagi izpolnjene naloge zavrže ovadbo, žrtev nima pravice prevzeti pregona ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

- **Kakšna je vloga žrtve (oškodovanca) v kazenskem postopku?**

Žrtev ima v postopku lahko vlogo **oškodovanca** in vlogo **priče**.

Žrtev kot oškodovanec je eden od subjektov kazenskega postopka (tako kot sta subjekta kazenskega postopka npr. obdolženec in državni tožilec). Kot tak, ima oškodovanec določene postopkovne pravice.

## ŽRTEV KOT OŠKODOVANEC

Oškodovanec se lahko udeleži posameznih dejanj v preiskavi, npr. ogleda (kraja kaznivega dejanja), zaslišanja izvedencev in prič. Oškodovanec pa ne more biti prisoten pri vseh dejanjih v fazi preiskave. Ne more namreč biti prisoten pri zaslišanju obdolženca in pri hišnih preiskavah. O preiskovalnih dejanjih, na katerih je lahko prisoten, oškodovanca obvesti preiskovalni sodnik.

V času sojenja je oškodovanec lahko prisoten na vseh narokih glavne obravnave, torej vsakič, ko se njegova zadeva obravnava na sodišču. O času in kraju naroka oškodovanca obvesti sodišče. To velja tudi za tiste naroke, na katerih je sicer javnost izključena. Oškodovančeva prisotnost na narokih sicer ni obvezna, razen takrat, kadar je oškodovanec vabljen kot priča. Prisotnost na obravnavah je za oškodovanca vseeno lahko pomembna. Če se na glavni obravnavi državni tožilec odloči, da bo umaknil obtožnico, ima oškodovanec pravico prevzeti pregon in ga nadaljevati namesto državnega tožilca, vendar mora to izjaviti takoj. Če oškodovanec takrat na glavni obravnavi ni prisoten, izgubi pravico nadaljevati pregon kaznivega dejanja.

Oškodovanec ima tako v času preiskave kot tekom sojenja pravico pregledovati sodne spise in zbrane dokaze. To pravico oškodovancu sodnik lahko odreče, dokler oškodovanec ni zaslišan kot priča.

Oškodovanec lahko tekom postopka podaja pripombe in predlaga nove dokaze. Pravico ima zahtevati, da se zberejo novi dokazi ali zaslišijo nove priče in postavijo novi izvedenci.

Pravico ima tudi postavljati vprašanja (a z vsakokratnim dovoljenjem sodnika) obdolžencu, pričam in izvedencem ter dajati pripombe na njihove izjave.

Oškodovanec ima pravico podati svojo zaključno besedo – po tem, ko je svojo zaključno besedo podal tožilec in preden jo poda obdolženec oz. njegov zagovornik.

## ŽRTEV KOT PRIČA

Ko je žrtev vabljena kot priča, se je dolžna odzvati vabilu sodišča, priti na sodišče in odgovarjati na vprašanja.

Pred zaslišanjem sodnik priči pojasni pravice, ki jih ima.

Žrtev kot priča lahko **odkloni zaslišanje oz. je zaslišanja oproščena**, če ima dolžnost varovanja uradne ali vojaške tajnosti; če je v sorodu z obdolžencem (njegov zakonec, zunajzakonski partner, mati ali oče, stara mati ali stari oče, otrok, posvojitelj, posvojenec, vnukinja ali vnuk ali kakšen drug bližnji sorodnik); ali ne sme posredovati podatkov, ki jih je izvedela med opravljanjem svojega poklica;

Žrtev kot priča lahko **odkloni odgovor na posamezna vprašanja**, če je verjetno, da bi z odgovorom spravila sebe ali svojega bližnjega sorodnika v hudo sramoto, znatno materialno škodo ali v kazenski pregon.

Žrtev kot priča ima pravico do povrnitve stroškov, povezanih s pričanjem, vključno s potnimi stroški, stroški za hrano in nastanitev in stroški zaradi odsotnosti z dela ali izgube dobička. Na to pravico žrtev opozori tudi sodnik, žrtev pa mora povračilo zahtevati takoj po zaslišanju.

# *4. Materiali za usposabljanje*

## *4.1. Materiali za usposabljanje združenj oseb z ovirami*

### *4.1.1. V zvezi z združenji oseb z ovirami*

1. Osebe z ovirami se le redko odločijo prijaviti kazniva dejanja in prekrške storjene zoper njih. Smiselno je pričakovati, da bi bila ta pripravljenost večja, če bi se žrtve kaznivih dejanj in prekrškov, ki so osebe z ovirami, zavedale, da obstaja sistem podpore za žrtve kaznivih dejanj in prekrškov ter da imajo žrtve kaznivih dejanj in prekrškov pravice v postopkih, katerih cilj je žrtvam olajšati izkušnjo sodelovanja v kazenskem postopku. Da bi to dosegli, je treba združenjem oseb z ovirami posredovati nekaj osnovnih in lahko razumljivih informacij o kazenskih postopkih, položaju in pravicah žrtev ter storitvah za podporo žrtvam, ki jih žrtve lahko uporabljajo. Na podlagi teh informacij bi lahko združenja oseb z ovirami vodila obsežno kampanjo za obveščanje svojih uporabnikov o njihovih pravicah, kadar postanejo žrtve kaznivih dejanj in prekrškov.

2. Obstajajo težave pri vzpostavljanju ustrezne komunikacije med žrtvami – osebami z ovirami, in uradniki pristojnih organov. Združenja oseb z ovirami bi lahko pomagala odpraviti te ovire. Njihovo znanje, glede značilnosti različnih vrst oviranosti, bi lahko bilo koristno pri obveščanju žrtev, zagotavljanju razumevanja posredovanih informacij, zagotavljanju mobilnosti in drugih potrebnih prilagoditev za osebe z ovirami ter napotitvi na ustrezen sistem podpore in pomoči.

3. Združenja oseb z ovirami bi lahko imela pomembno vlogo tudi pri izobraževanju policistov in drugih uslužbencev pravosodnega sistema o tem, kako pristopiti k osebam z ovirami in v kolikšni meri je potrebno in zaželeno, da se njihova procesna dejanja prilagodijo potrebam oseb z ovirami.

4. Ker v obstoječem sistemu podpore ni zadostne stopnje ozaveščenosti o posebnih potrebah žrtev, ki so osebe z ovirami, je treba delati na ozaveščanju. Društva oseb z ovirami bi lahko pri tem igrala pomembno vlogo, in sicer preko sistemskega vključevanja organizacij civilne družbe v sistem podpore žrtvam kaznivih dejanj.

5. Združenja oseb z ovirami bi lahko bila dejavneje vključena v posamezne postopke individualne ocene žrtev in s svojimi priporočili zagotovila ustrezno zaščito žrtev, njihovi predstavniki pa bi lahko aktivneje prevzeli vlogo zaupne osebe, ki žrtve spremljajo v kazenskih in prekrškovnih postopkih.

### *4.1.2. Power point*

Slide 1

Direktiva 2012/29 / EU o določitvi minimalnih standardov o pravicah, podpori in zaščiti žrtev kaznivih dejanj ter nadomeščanju Okvirnega sklepa Sveta 2001/220 / PNZ je ustvarila pravno podlago za uresničevanje pravice žrtev kaznivih dejanj do informacij, s tem pa tudi potrebne predpogoje za informirano sodelovanje žrtve v kazenskem postopku. Državni organi (kot primarni nosilci obveznosti), pa tudi druge institucije in organizacije, ki prihajajo v stik z žrtvami kaznivih dejanj in prekrškov, morajo (a) uporabiti ustrezen pristop do žrtve, (b) žrtvi ponuditi kakovostne, razumljive informacije o njegovih pravicah in (c) zagotoviti informacije o možnostih za pridobitev pomoči in podpore, tako glede njihove udeležbe v kazenskem postopku kot tudi glede odpravljanja posledic kaznivega dejanja.

Dokazi o pomembnosti te teme so bili zbrani tako z raziskavo o izkušnjah žrtev samih kot tudi preko poročil strokovnjakov o težavah, s katerimi se soočajo pri vsakodnevnem delu.

Slide 2

# RAZISKOVANJE

- VPRAŠALNIK ZA DRUŠTVA OSEB Z INVALIDNOSTMI O TEM, KAKŠNE SO NJIHOVE KAPACITETE, DA PREVZAMEJO VEČJO VLOGO PRI PODPORI ŽRTEV MED SVOJIMI UPORABNIKI IN SODELUJEJO Z ORGANI KAZENSKEGA PRAVOSODJA IN DRUGIMI DRŽAVNIMI ORGANI

Slide 3

# REZULTATI

- Nekatera društva že imajo izkušnje s podporo žrtvam kaznivih dejanj.
- Zagotavljajo informacije o pravicah in podpori, žrtvam pomagajo pri komunikaciji, napotijo jih v ustanove, ki nudijo specializirano podporo, in spremljajo žrtve, ko gredo k organom kazenskega pravosodja.
- Izrazila pa so tudi interes za razširitev podpore, ki jo nudijo.

Slide 4

REZULTATI

Nekatera društva takšnih izkušenj nimajo, izrazila pa so zanimanje, da bi žrtvam nudila:

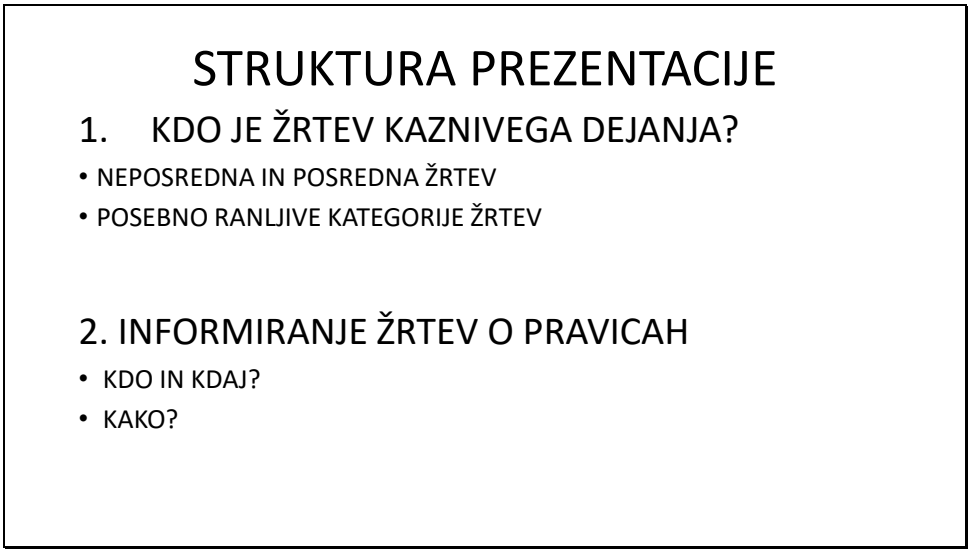
- Pomoč pri zagotavljanju njihove mobilnosti
- Informiranje o njihovih pravicah in podpori, ki jim je na voljo
- Napotitev v ustanove, ki nudijo specializirano pomoč
- Zagovorništvo v stikih z organi kazenskega pravosodja
- Zagotavljanje spremstva na policijo, državno tožilstvo in sodišče v vlogi zaupne osebe

Slide 5

# REZULTATI

- Da bi podporo žrtvam lahko nudila, so društva povedala, da bi potrebovala:
- Izboljšanje znanja o kazenskopravnem sistemu
- Dodaten kader
- Dodato financiranje
- Dodatne (dostopne) prostore

Slide 6

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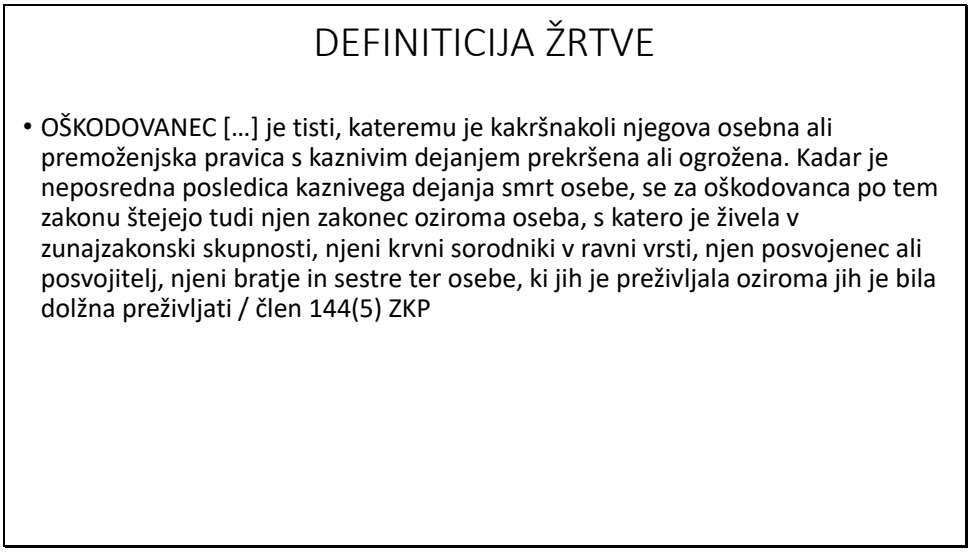


Ko govorimo o pravicah žrtev, je pomembno imeti v mislih definicije osnovnih pojmov:

Kako zakon definira žrtev?
Katere so karakteristike različnih kategorij žrtev in kakšne so razlike med njimi?

V viktimološkem (ožjem) smislu je žrtev kaznivega dejanja „vsaka fizična oseba, katere premoženje ali pravice so bile s kaznivim dejanjem neposredno ogrožene, kršene ali razveljavljene."
Slovenski Zakon o kazenskem postopku (ZKP) ne pozna izraza žrtev, temveč govori o oškodovancu, definicija slednjega ustreza zgornji, viktimološki definiciji žrtve.
Za izdelavo te prezentacije je bilo uporabljeno besedilo Zakona o kazenskem postupku (Uradni list RS, št. 32/12 – uradno prečiščeno besedilo, 47/13, 87/14, 8/16 – odl. US, 64/16 – odl.

US, 65/16 – odl. US, 66/17 – ORZKP153,154, 22/19, 55/20 – odl. US, 89/20 – odl. US, 191/20 – odl. US, 200/20 in 105/21 – odl. US)

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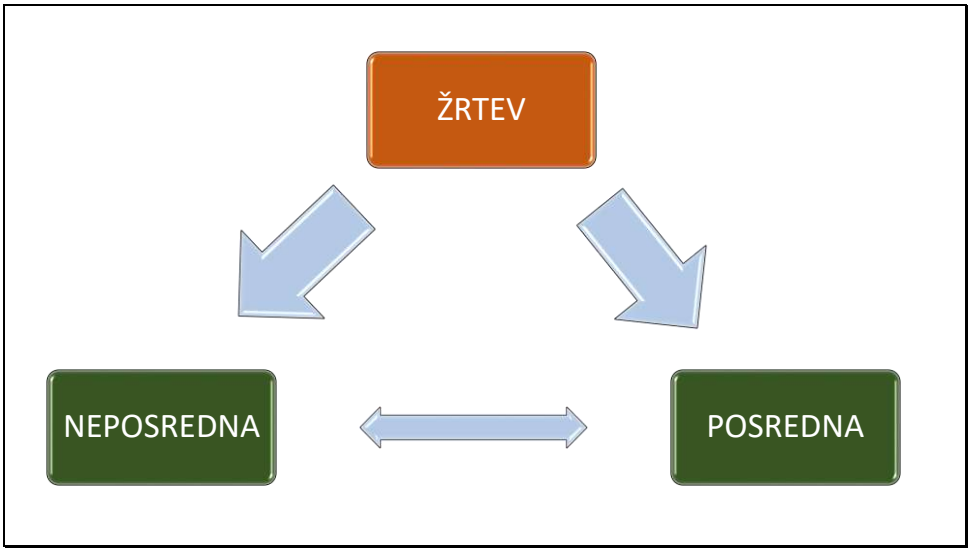
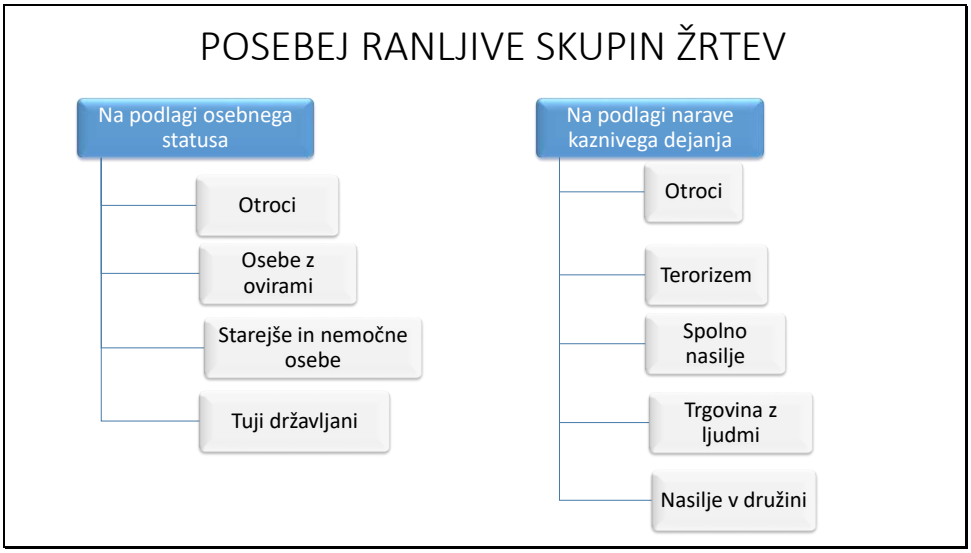



Direktiva o pravicah žrtev je pri definiciji žrtve postavila višje standarde, ki pa niso enotno implementirani v vseh državah članicah. Nekatere države definirajo pojem „žrtve" ozko in izključujejo „posredne" žrtve kot so družinski člani.
Slovenski ZKP pravico do zaščite daje svojcem žrtve kaznivega dejanja le, kadar je neposredna posledica kaznivega dejanja smrt žrtve.

Slide 9




Nekaterim kategorijam žrtev Direktiva pa tudi slovenski ZKP posvečata posebno pozornost, zlasti glede njihove ranljivosti in posebnih potreb po zaščiti. Poseben položaj žrtve se presoja na podlagi njenega osebnega statusa: otroci, osebe z ovirami, pa tudi žrtve, ki bivajo v državi članici, ki ni

država članica, v kateri je bilo storjeno kaznivo dejanje; in tudi na podlagi narave kaznivega dejanja, katerega žrtev so: žrtve terorizma, organiziranega kriminala, trgovine z ljudmi, nasilja na podlagi spola, nasilja v odnosu z bližnjimi, spolnega nasilja, izkoriščanja ali zločinov iz sovraštva.

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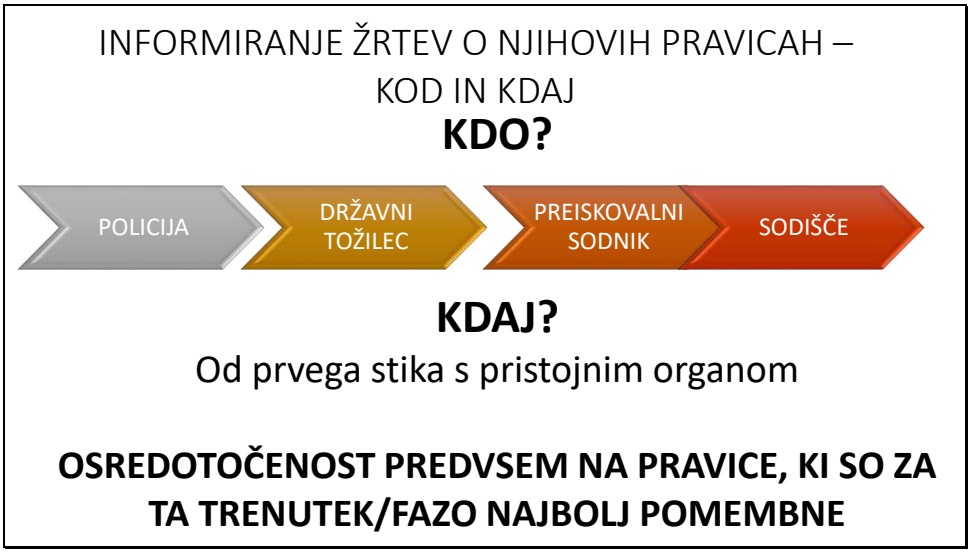


V skladu z ZKP je je potrebno žrtvam ob prvem stiku s pristojnim organom zagotoviti potrebne informacije, da lahko dostopajo do pravic, ki jim jih priznava zakon. Dolžnost informiranja zadeva tako policijo kot tožilstvo in sodišča.
Obseg in vrsta informacij sta odvisna od osebnih značilnosti in ranljivosti žrtve, njenih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka.

Rezultati raziskovanja kažejo, da je za žrtve pomembno, da informacije prejmejo večkrat - s strani vseh vpletenih akterjev, in da so te osredotočene na pravice, ki so v tistem trenutku najbolj pomembne. Na primer, ob prvem stiku s policijo je najbolj pomemben občutek varnosti. Zato naj se policisti najbolj osredotočijo na informiranje o pravici do zaščite in vseh ukrepih, ki so pri policiji v ta namen na voljo.

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## INFORMIRANJE ŽRTEV O PRAVICAH – KDO IN KDAJ? (2)

REZULTATI RAZISKOVANJA

- "Kdo bi lahko vedel, da bodo posamezne stvari, ki jih takrat nisem doživljala kot pomembne, kasneje postale bistvene?"
- "Na splošno verjamem, da je za ženske najbolj pomembno, da dobijo informacije, kam se lahko zatečejo, poiščejo zatočišče in kako. Kaj je tam zunaj na voljo, tega veliko žensk ne ve."
- "/...Kar je pomembno zanje,/ da ti povedo, da imaš pravico do zaščite, da jih imaš pravico poklicati, da imaš pravico prijaviti vsako kršitev prepovedi približevanja…, vsako nadlegovanje, da imaš pravico… Navsezadnje, biti varna. Ja. Da si varna."

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## INFORMIRANJE ŽRTEV O PRAVICAH — KAKO? (1)

**KAKO?**

- Zakon o kazenskem postopku:

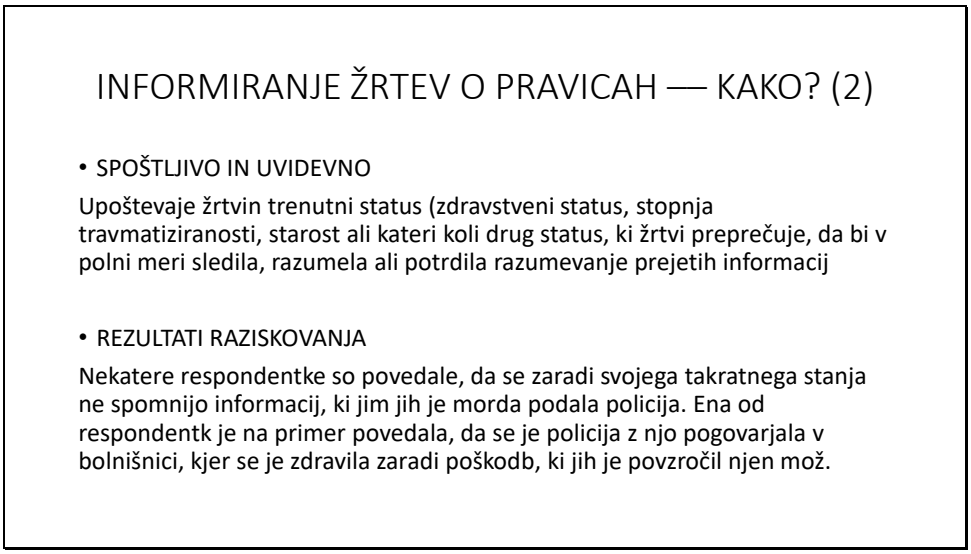
Policija, državno tožilstvo, sodišče in drugi državni organi, strokovnjaki, izvedenci, sodni in drugi tolmači ter poravnalci morajo med predkazenskim in kazenskim postopkom še posebej skrbno in obzirno ravnati z oškodovanci, osumljenci, obdolženci in obsojenci, kadar je to potrebno zaradi njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti, ali druge podobne okoliščine. /člen 18.a ZKP

Obseg in vrsta informacij iz prejšnjega odstavka sta odvisna od osebnih značilnosti in ranljivosti oškodovanca, njegovih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka. /člen 65.a(2) ZKP

- Direktiva o pravicah žrtev:

Države članice zagotovijo, da komunikacija z žrtvami poteka v enostavnem in dostopnem jeziku, in sicer ustno ali pisno. Pri takšni komunikaciji se upoštevajo osebne značilnosti žrtve, vključno z morebitno oviranostjo, ki bi lahko vplivala na zmožnost razumeti ali biti razumljen. /člen 3(2) Direktive

Slide 13

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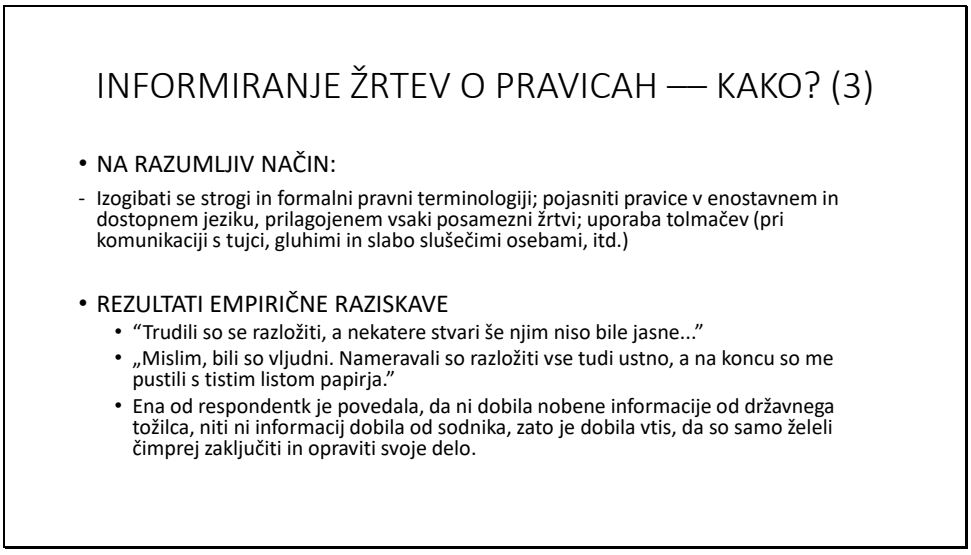


V kontaktu s pristojnimi organi se žrtve pogosto počutijo izgubljene. Izkušnje kažejo, da podobno velja tudi za posameznike, zaposlene pri pristojnih organih: v vsakem posameznem primeru morajo izpolniti številne procesne dolžnosti, zato se informiranja žrtev lotijo zelo površno. Empirično raziskovanje je pokazalo, da nekateri pravice zgolj preberejo žrtvam, brez dodatnih pojasnil ali pa z nezadostnimi pojasnili.

Da bi preprečili občutke osamljenosti, negotovosti in strahu, bi se morali policisti, tožilci in sodniki potruditi in žrtvam zagotoviti informacije celovito, razumljivo in pravočasno, tako da žrtev prejme vse informacije, da jih razume in se potem lahko informirano odloči, ali jih bo udejanjila ali ne.

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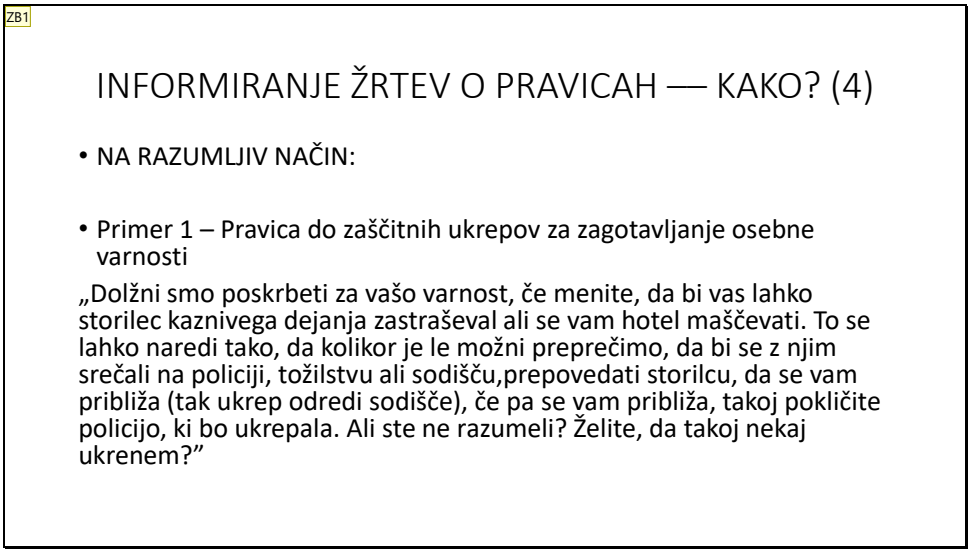


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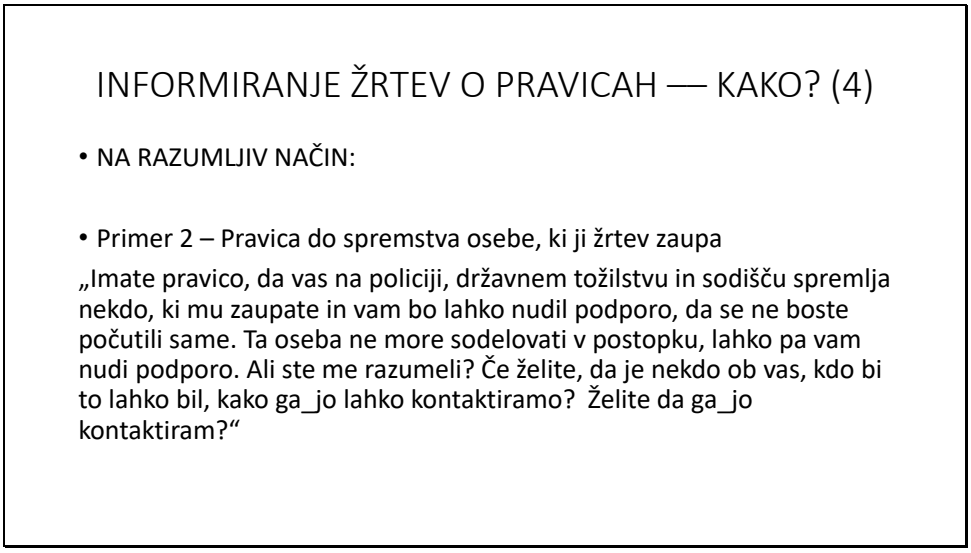

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## INFORMIRANJE ŽRTEV O PRAVICAH — KAKO? (5)

TAKO USTNO KOT PISNO:

- Obvezno ustno podati informacije (v pogovoru), pa tudi pisne materiale (Številne žrtve so zaradi kaznivega dejanja travmatizirane in v šoku – potrebno jim je svetovati, da informacije o pravicah preberejo kasneje v miru, in da lahko kontaktirajo osebo, ki jim je podala informacije, tudi kasneje – če in ko potrebujejo dodatna pojasnila.

PREPRIČAJTE SE, DA ŽRTEV SVOJE PRAVICE RAZUME

- Ni dovolj, da žrtev svoje razumevanje zgolj potrdi z „Da." Pomembno je na primeren način, prilagojen vsaki posamezni žrtvi, preveriti, ali razume pomen vsake od pravic.

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## REZULTATI TAKŠNEGA PRISTOPA K INFORMIRANJU ŽRTEV O PRAVICAH

- Prispevanje k vzpostavitvi občutka varnosti, zaščite in zaupanja (ne le v posamezno osebo, temveč tudi v sistem)
- Sodelovanje žrtve je ključnega pomena za uspešen potek in zaključek kazenskega postopka

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INFORMIRANJE ŽRTEV O PRAVICAH – PSIHOLOŠKI VIDIKI

?

Kakšni so nameravani rezultati
Kako jih doseči

Kaj lahko storimo, da bodo pravice žrtev resnično uresničene

V tem procesu sta pomembni dve stvari: poleg vsebinskih vidikov obveščanja žrtve o pravicah, je zelo pomemben tudi psihološki vidik. To pomeni, da mora biti vsaka oseba – zaposlena pri državnem organu, ki je odgovoren za obveščanje žrtve o pravicah, dovolj izobražena na ravni znanja in ravni spretnosti. V ta namen je pomembno povečati ozaveščenost o namenu informacijskega procesa in kaj želimo z njim doseči: ne gre le za formalno izvajanje vseh zakonsko predpisanih ukrepov, pomembno je, da žrtev pridobi zaupanje in občutek varnosti. Namreč, poglavitni cilj policije, državnega tožilstva in sodišča je uspešen kazenski pregon, tj. zaščita žrtve preko kakovostnega pregona in obsodbe storilcev. Če obstaja zavedanje, da je žrtev, ki kot subjekt kazenskega postopka v njem učinkovito sodeluje, eden od dejavnikov uspeha postopka, se bodo našli tudi načini za učinkovito informiranje žrtve o njenih pravicah in o načinu, kako jih uresničiti.
Kako to doseči?
Predvsem z uporabo ustreznega pristopa do vsake posamezne žrtve vsakega (to bo obravnavano v naslednjem razdelku / temi). Nadalje je potrebna dobra seznanjenost z vsebino pravic, zato da se lahko podajo kvalitetne, celovite in uporabne informacije o tem, kako jih uresničiti. Zelo pomembna je sposobnost, da se postavimo v položaj žrtve. Za žrtev je pomembno, da jo nekdo skrbno posluša, je v komunikaciji z njo potrpežljiv in si zanjo vzame dovolj časa. Čeprav uradna oseba morda ne ve vseh podrobnosti, kako in kje lahko žrtev uresniči svojo pravico, včasih zadostuje, da žrtev napoti na osebe, inštitucije ter organizacije civilne družbe, ki lahko nudijo bolj natančne informacije, pomoč ali podporo.

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VPRAŠANJA
KOMENTARJI
SUGESTIJE

### *4.2. Materiali za usposabljanje deležnikov kazenskega in prekrškovnega pravosodja*

#### *4.2.1. V zvezi z institucijami*

Kadar se osebe z ovirami, ki so žrtve kaznivih dejanj ali prekrškov, odločijo prijaviti kaznivo dejanje ali prekršek, storjen zoper njih, pristojnim institucijam ali drugi osebi ali organizaciji, se soočajo s številnimi težavami. Sodelovanje v kazenskem ali prekrškovnem postopku je zanje še veliko bolj obremenjujoče kot za žrtve, ki niso osebe z ovirami. Prizadevati si je treba za odpravo tistih dejavnikov, ki to izkušnjo, v primerjavi z drugimi žrtvami, otežujejo:

1. Treba je vzpostaviti mehanizme, ki omogočajo identifikacijo žrtev kaznivih dejanj, ki so osebe z ovirami.

2. Treba je odpravljati prepreke, ki osebam z ovirami preprečujejo ali ovirajo fizični dostop do policijskih organov in organov kazenskega ali prekrškovnega pravosodja.

3. Treba je odpravljati prepreke, ki ovirajo možnost ustrezne komunikacije med osebami z ovirami in policisti ter uslužbenci kazenskega ali prekrškovnega pravosodja. Združenja oseb z ovirami bi lahko pomagala odpraviti te ovire. Njihovo znanje, glede na posebnosti posameznih kategorij oviranosti, bi lahko bilo koristno pri informiranju žrtev, zagotavljanju razumevanja posredovanih informacij, zagotavljanju mobilnosti in drugih potrebnih prilagoditev za osebe z ovirami ter napotitvi na ustrezen sistem podpore in pomoči. Ta združenja bi lahko imela pomembno vlogo tudi tako, da bi osebam z ovirami zagotavljale spremstvo zaupne osebe, pa tudi s priporočili sodelovale v postopku individualne ocene potreb žrtev kaznivih dejanj, ki so osebe z ovirami.

4. Med uslužbenci policije in drugih pravosodnih organov ni dovolj razvita ozaveščenost o tem, kako pristopiti k osebam z ovirami in v kolikšni meri je potrebno in zaželeno njihova procesna dejanja prilagoditi možnostim in potrebam oseb z ovirami. Zato je treba za uslužbence pristojnih organov sistematično izvajati usposabljanja o potrebah oseb z ovirami in potrebnih prilagoditvah. Pomembno vlogo pri usposabljanju bi lahko imela združenja oseb z ovirami, ki bi morala biti dejavno vključena v obveščanje in usposabljanje zainteresiranih strani iz pravosodnega sistema o tem, kako komunicirati z osebami z ovirami, ter o potrebnih prilagoditvah za osebe z različnimi vrstami oviranosti.

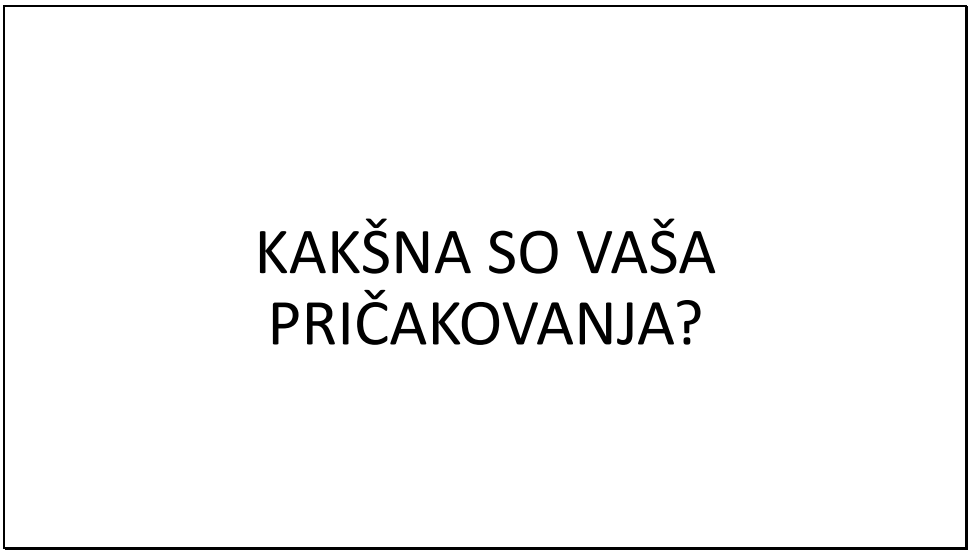
### *4.2.2. Power point*

Slide 1

Direktiva 2012/29 / EU o določitvi minimalnih standardov o pravicah, podpori in zaščiti žrtev kaznivih dejanj ter nadomeščanju Okvirnega sklepa Sveta 2001/220 / PNZ je ustvarila pravno podlago za uresničevanje pravice žrtev kaznivih dejanj do informacij, s tem pa tudi potrebne predpogoje za informirano sodelovanje žrtve v kazenskem postopku. Državni organi (kot primarni nosilci obveznosti), pa tudi druge institucije in organizacije, ki prihajajo v stik z žrtvami kaznivih dejanj in prekrškov, morajo (a) uporabiti ustrezen pristop do žrtve, (b) žrtvi ponuditi kakovostne, razumljive informacije o njegovih pravicah in (c) zagotoviti informacije o možnostih za pridobitev pomoči in podpore, tako glede njihove udeležbe v kazenskem postopku kot tudi glede odpravljanja posledic kaznivega dejanja.

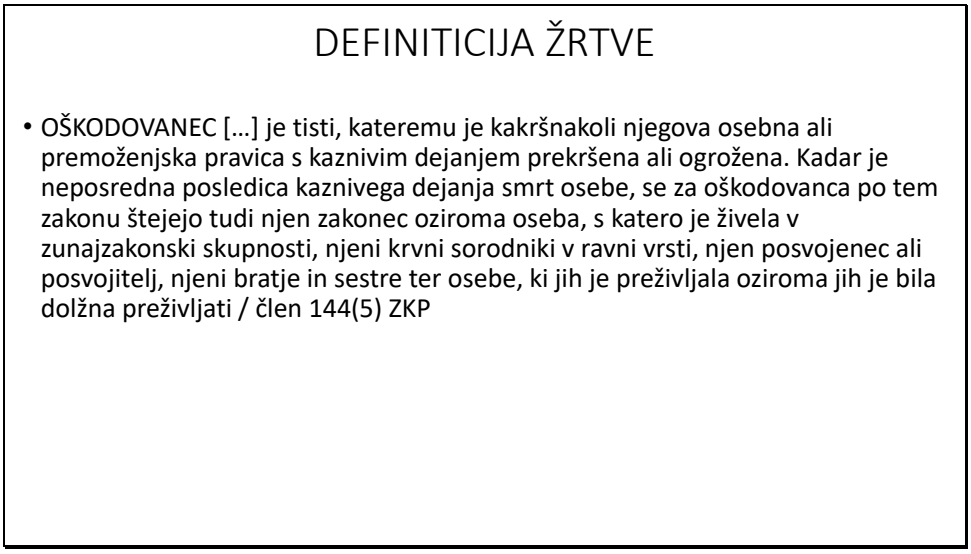
Dokazi o pomembnosti te teme so bili zbrani tako z raziskavo o izkušnjah žrtev samih kot tudi preko poročil strokovnjakov o težavah, s katerimi se soočajo pri vsakodnevnem delu.

Slide 2




Čeprav smo pripravili to predstavitev, bi radi slišali, kaj udeleženci pričakujete od te delavnice. Kaj bi radi slišali v zvezi s to temo? O katerih problemih bi radi razpravljali?

Slide 3



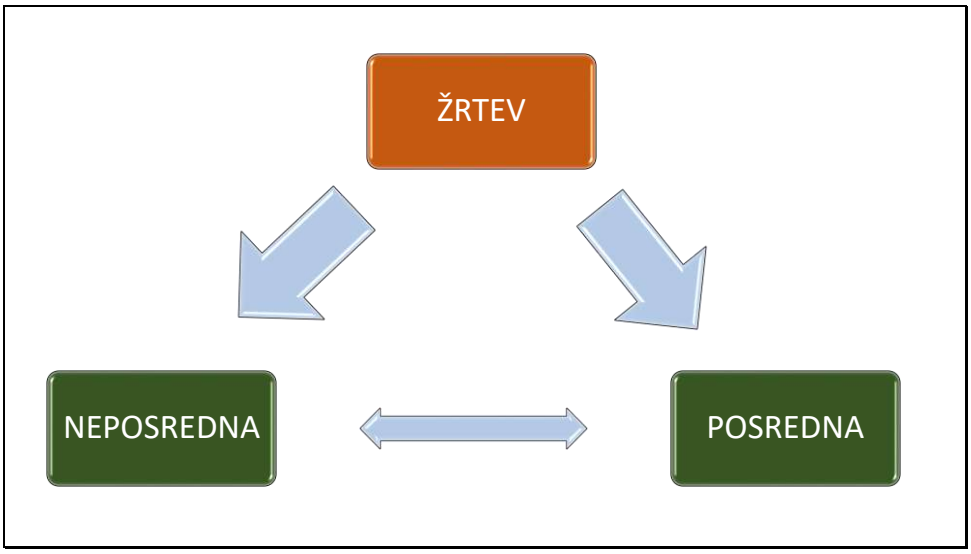

Ko govorimo o pravicah žrtev, je pomembno imeti v mislih definicije osnovnih pojmov:

Kako zakon definira žrtev?
Katere so karakteristike različnih kategorij žrtev in kakšne so razlike med njimi?

V viktimološkem (ožjem) smislu je žrtev kaznivega dejanja „vsaka fizična oseba, katere premoženje ali pravice so bile s kaznivim dejanjem neposredno ogrožene, kršene ali razveljavljene."
Slovenski Zakon o kazenskem postopku (ZKP) ne pozna izraza žrtev, temveč govori o oškodovancu, definicija slednjega ustreza zgornji, viktimološki definiciji žrtve.

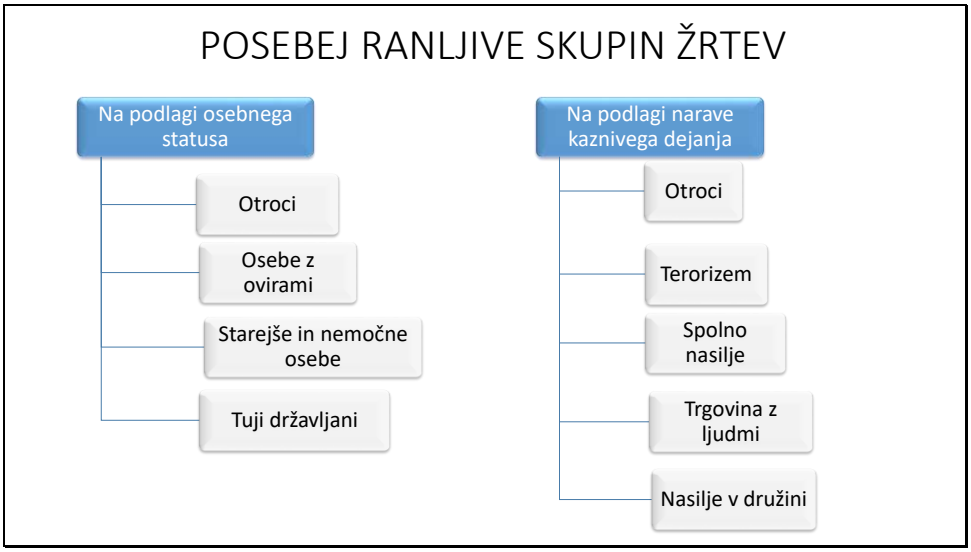
Za izdelavo te prezentacije je bilo uporabljeno besedilo Zakona o kazenskem postupku (Uradni list RS, št. 32/12 – uradno prečiščeno besedilo, 47/13, 87/14, 8/16 – odl. US, 64/16 – odl. US, 65/16 – odl. US, 66/17 – ORZKP153,154, 22/19, 55/20 – odl. US, 89/20 – odl. US, 191/20 – odl. US, 200/20 in 105/21 – odl. US)

Slide 4




Direktiva o pravicah žrtev je pri definiciji žrtve postavila višje standarde, ki pa niso enotno implementirani v vseh državah članicah. Nekatere države definirajo pojem „žrtve" ozko in izključujejo „posredne" žrtve kot so družinski člani.
Slovenski ZKP pravico do zaščite daje svojcem žrtve kaznivega dejanja le, kadar je neposredna posledica kaznivega dejanja smrt žrtve.

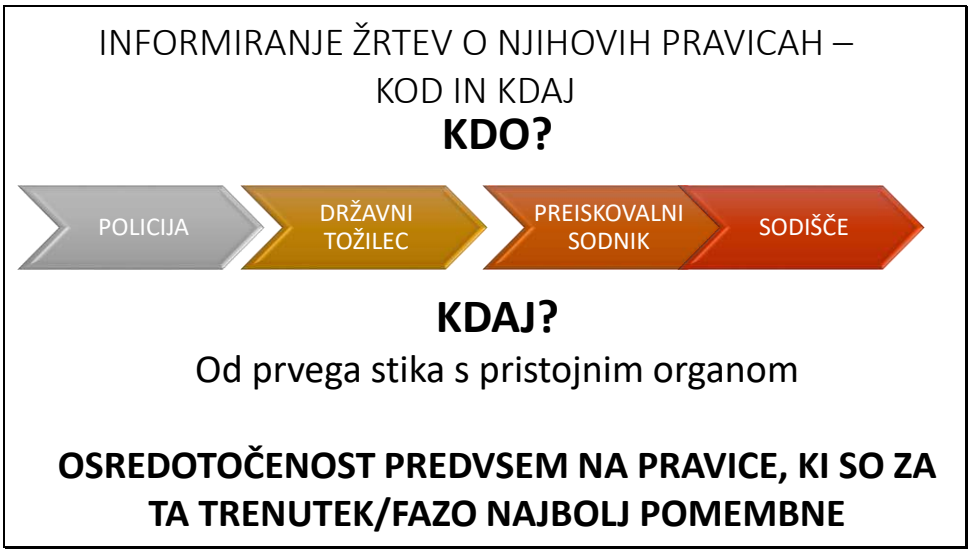
Slide 5




Nekaterim kategorijam žrtev Direktiva pa tudi slovenski ZKP posvečata posebno pozornost, zlasti glede njihove ranljivosti in posebnih potreb po zaščiti. Poseben položaj žrtve se presoja na podlagi

njenega osebnega statusa: otroci, osebe z ovirami, pa tudi žrtve, ki bivajo v državi članici, ki ni država članica, v kateri je bilo storjeno kaznivo dejanje; in tudi na podlagi narave kaznivega dejanja, katerega žrtev so: žrtve terorizma, organiziranega kriminala, trgovine z ljudmi, nasilja na podlagi spola, nasilja v odnosu z bližnjimi, spolnega nasilja, izkoriščanja ali zločinov iz sovraštva.

Slide 6




V skladu z ZKP je je potrebno žrtvam ob prvem stiku s pristojnim organom zagotoviti potrebne informacije, da lahko dostopajo do pravic, ki jim jih priznava zakon. Dolžnost informiranja zadeva tako policijo kot tožilstvo in sodišča.
Obseg in vrsta informacij sta odvisna od osebnih značilnosti in ranljivosti žrtve, njenih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka.
Rezultati raziskovanja kažejo, da je za žrtve pomembno, da informacije prejmejo večkrat - s strani vseh vpletenih akterjev, in da so te osredotočene na pravice, ki so v tistem trenutku najbolj pomembne. Na primer, ob prvem stiku s policijo je najbolj pomemben občutek varnosti. Zato naj se policisti najbolj osredotočijo na informiranje o pravici do zaščite in vseh ukrepih, ki so pri policiji v ta namen na voljo.

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## INFORMIRANJE ŽRTEV O PRAVICAH – KDO IN KDAJ? (2)

REZULTATI RAZISKOVANJA

- "Kdo bi lahko vedel, da bodo posamezne stvari, ki jih takrat nisem doživljala kot pomembne, kasneje postale bistvene?"
- "Na splošno verjamem, da je za ženske najbolj pomembno, da dobijo informacije, kam se lahko zatečejo, poiščejo zatočišče in kako. Kaj je tam zunaj na voljo, tega veliko žensk ne ve."
- "/...Kar je pomembno zanje,/ da ti povedo, da imaš pravico do zaščite, da jih imaš pravico poklicati, da imaš pravico prijaviti vsako kršitev prepovedi približevanja…, vsako nadlegovanje, da imaš pravico… Navsezadnje, biti varna. Ja. Da si varna."

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## INFORMIRANJE ŽRTEV O PRAVICAH — KAKO? (1)

**KAKO?**

- Zakon o kazenskem postopku:

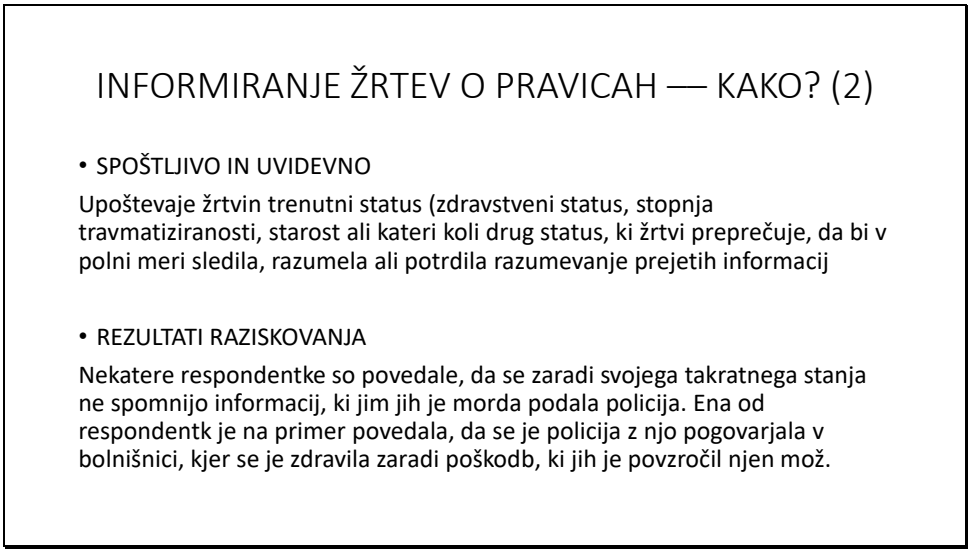
Policija, državno tožilstvo, sodišče in drugi državni organi, strokovnjaki, izvedenci, sodni in drugi tolmači ter poravnalci morajo med predkazenskim in kazenskim postopkom še posebej skrbno in obzirno ravnati z oškodovanci, osumljenci, obdolženci in obsojenci, kadar je to potrebno zaradi njihove ranljivosti, kot na primer starosti, zdravja, nebogljenosti, ali druge podobne okoliščine. /člen 18.a ZKP

Obseg in vrsta informacij iz prejšnjega odstavka sta odvisna od osebnih značilnosti in ranljivosti oškodovanca, njegovih posebnih potreb po zaščiti, narave, teže in okoliščin kaznivega dejanja ter faze predkazenskega ali kazenskega postopka. /člen 65.a(2) ZKP

- Direktiva o pravicah žrtev:

Države članice zagotovijo, da komunikacija z žrtvami poteka v enostavnem in dostopnem jeziku, in sicer ustno ali pisno. Pri takšni komunikaciji se upoštevajo osebne značilnosti žrtve, vključno z morebitno oviranostjo, ki bi lahko vplivala na zmožnost razumeti ali biti razumljen. /člen 3(2) Direktive

Slide 9

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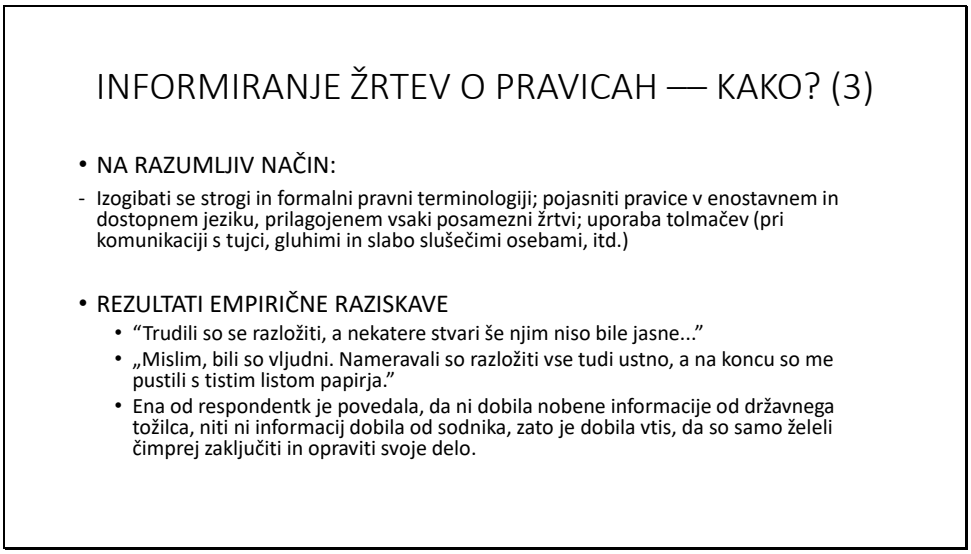


V kontaktu s pristojnimi organi se žrtve pogosto počutijo izgubljene. Izkušnje kažejo, da podobno velja tudi za posameznike, zaposlene pri pristojnih organih: v vsakem posameznem primeru morajo izpolniti številne procesne dolžnosti, zato se informiranja žrtev lotijo zelo površno. Empirično raziskovanje je pokazalo, da nekateri pravice zgolj preberejo žrtvam, brez dodatnih pojasnil ali pa z nezadostnimi pojasnili.

Da bi preprečili občutke osamljenosti, negotovosti in strahu, bi se morali policisti, tožilci in sodniki potruditi in žrtvam zagotoviti informacije celovito, razumljivo in pravočasno, tako da žrtev prejme vse informacije, da jih razume in se potem lahko informirano odloči, ali jih bo udejanjila ali ne.

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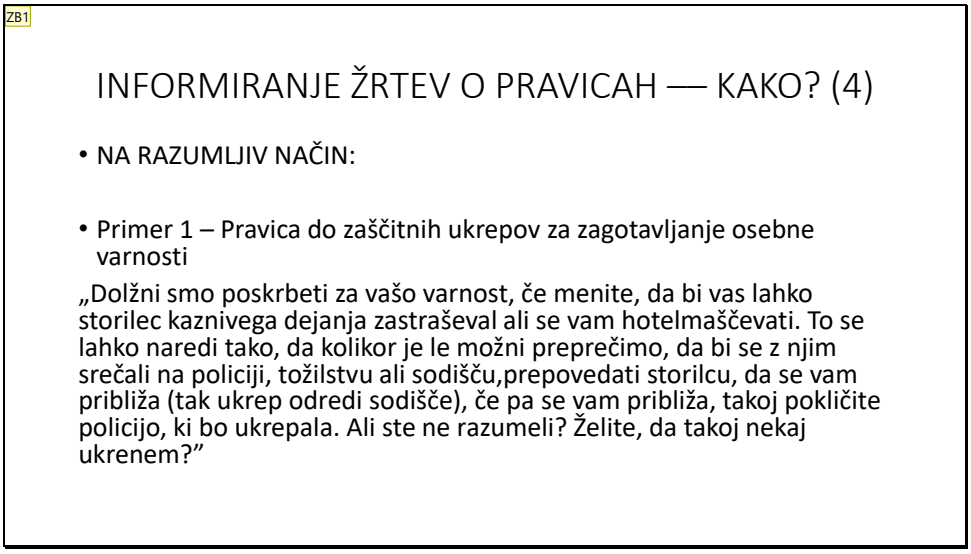


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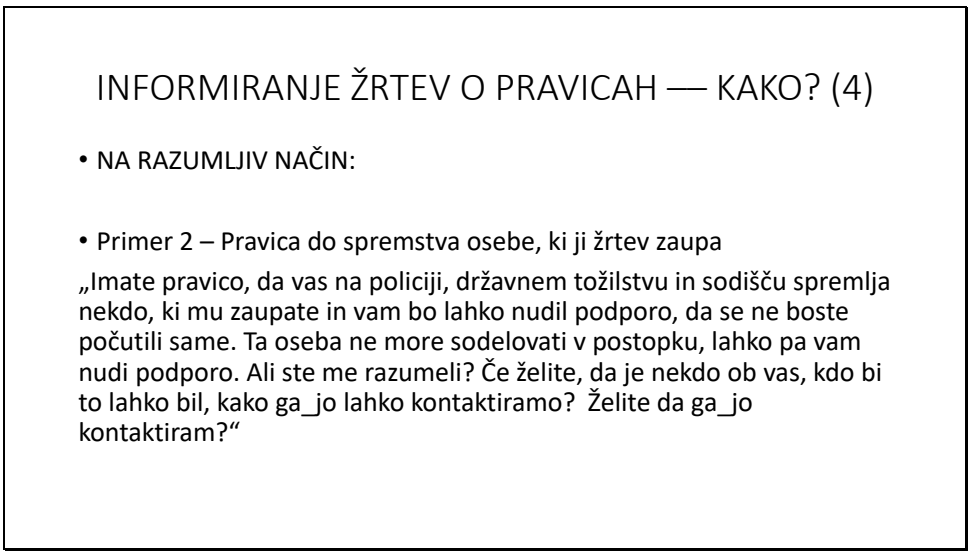

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## INFORMIRANJE ŽRTEV O PRAVICAH — KAKO? (5)

TAKO USTNO KOT PISNO:

- Obvezno ustno podati informacije (v pogovoru), pa tudi pisne materiale (Številne žrtve so zaradi kaznivega dejanja travmatizirane in v šoku – potrebno jim je svetovati, da informacije o pravicah preberejo kasneje v miru, in da lahko kontaktirajo osebo, ki jim je podala informacije, tudi kasneje – če in ko potrebujejo dodatna pojasnila.

PREPRIČAJTE SE, DA ŽRTEV SVOJE PRAVICE RAZUME

- Ni dovolj, da žrtev svoje razumevanje zgolj potrdi z „Da." Pomembno je na primeren način, prilagojen vsaki posamezni žrtvi, preveriti, ali razume pomen vsake od pravic.

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## REZULTATI TAKŠNEGA PRISTOPA K INFORMIRANJU ŽRTEV O PRAVICAH

- Prispevanje k vzpostavitvi občutka varnosti, zaščite in zaupanja (ne le v posamezno osebo, temveč tudi v sistem)
- Sodelovanje žrtve je ključnega pomena za uspešen potek in zaključek kazenskega postopka

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INFORMIRANJE ŽRTEV O PRAVICAH – PSIHOLOŠKI VIDIKI

?

Kakšni so nameravani rezultati
Kako jih doseči

Kaj lahko storimo, da bodo pravice žrtev resnično uresničene

V tem procesu sta pomembni dve stvari: poleg vsebinskih vidikov obveščanja žrtve o pravicah, je zelo pomemben tudi psihološki vidik. To pomeni, da mora biti vsaka oseba – zaposlena pri državnem organu, ki je odgovoren za obveščanje žrtve o pravicah, dovolj izobražena na ravni znanja in ravni spretnosti. V ta namen je pomembno povečati ozaveščenost o namenu informacijskega procesa in kaj želimo z njim doseči: ne gre le za formalno izvajanje vseh zakonsko predpisanih ukrepov, pomembno je, da žrtev pridobi zaupanje in občutek varnosti. Namreč, poglavitni cilj policije, državnega tožilstva in sodišča je uspešen kazenski pregon, tj. zaščita žrtve preko kakovostnega pregona in obsodbe storilcev. Če obstaja zavedanje, da je žrtev, ki kot subjekt kazenskega postopka v njem učinkovito sodeluje, eden od dejavnikov uspeha postopka, se bodo našli tudi načini za učinkovito informiranje žrtve o njenih pravicah in o načinu, kako jih uresničiti.

Kako to doseči?

Predvsem z uporabo ustreznega pristopa do vsake posamezne žrtve vsakega (to bo obravnavano v naslednjem razdelku / temi). Nadalje je potrebna dobra seznanjenost z vsebino pravic, zato da se lahko podajo kvalitetne, celovite in uporabne informacije o tem, kako jih uresničiti. Zelo pomembna je sposobnost, da se postavimo v položaj žrtve. Za žrtev je pomembno, da jo nekdo skrbno posluša, je v komunikaciji z njo potrpežljiv in si zanjo vzame dovolj časa. Čeprav uradna oseba morda ne ve vseh podrobnosti, kako in kje lahko žrtev uresniči svojo pravico, včasih zadostuje, da žrtev napoti na osebe, inštitucije ter organizacije civilne družbe, ki lahko nudijo bolj natančne informacije, pomoč ali podporo.

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VPRAŠANJA
KOMENTARJI
SUGESTIJE

Slide 1

# Kako pristopiti k žrtvam kaznivih dejanj

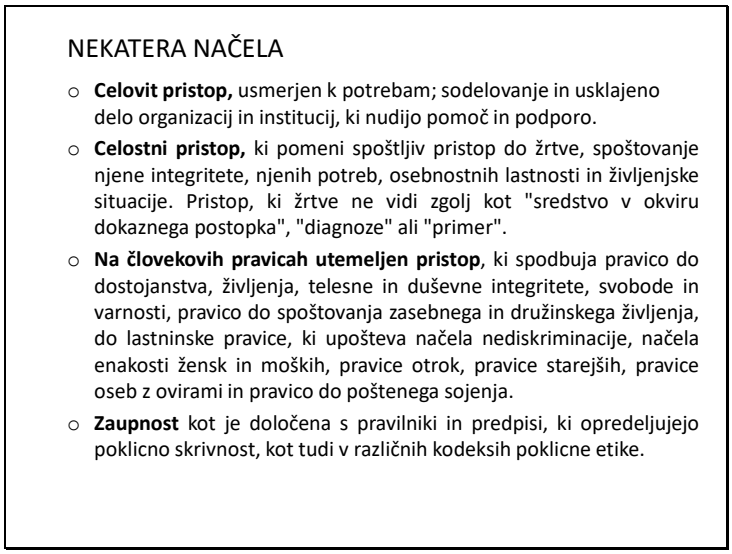
Slide 2

VSEBINA PREZENTACIJE

I. SPLOŠNA NAČELA KOMUNIKACIJE Z ŽRTVAMI

II. KAKO PRISTOPITI K ŽRTVAM, KI SO OSEBE Z OVIRAMI OZ. INVALIDNOSTMI

Slide 3

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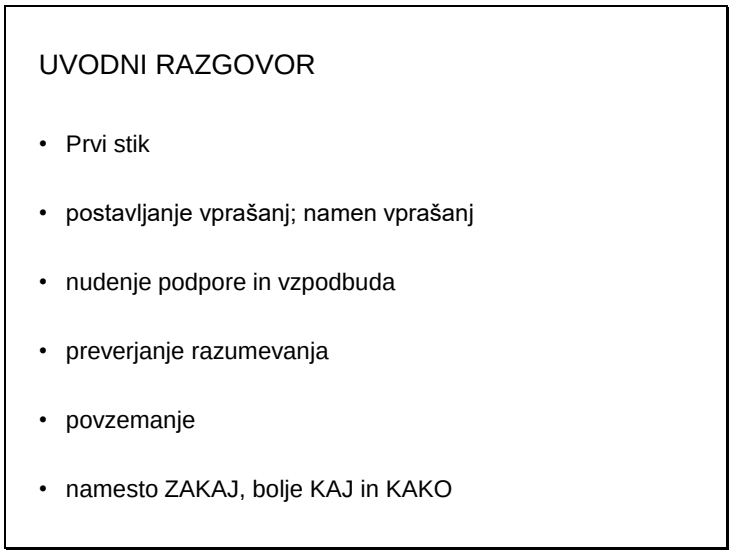


**Prvi stik/Uvodni razgovor**

Prvi stik z osebo, ki je preživela travmo, poteka v obliki razgovora, ki ga s točno določenim namenom in ciljem vodi strokovnjak_inja.

Pri vodenju razgovora strokovnjak_inja:

- Naj se zaveda, da je oseba, s katero se pogovarja, edinstven_a posameznik_ca.
- Naj bo celostno angažiran_a in naj uporablja vse sestavine svojega vedenja (kognicijo, čustva, dejanja in neverbalno komunikacijo).
- Izhaja naj iz eksistenčne pozicije "Jaz sem v redu, ti si v redu."
- Zaveda naj se drugega in situacije ter naj tudi poskrbi zase.
- Ne sme obsojati ali ocenjevati žrtve.
- Poskrbeti mora za potrebe žrtve.
- Podatke, ki jih prejme od žrtve, bo tajno varoval.

Najprej je potrebno ustvariti primerno vzdušje za skupno delo. Prav tako je nujno, da tako strokovnjak_inja kot žrtev vesta, kaj je namen pogovora/intervjuja. Strokovnjak_inja mora biti žrtvi v podporo in ji omogočiti, da **izrazi svoja čustva brez strahu pred obsojanjem ali posmehovanjem**. Kompetenten strokovnjak_inja ve, kako voditi razgovor, kako ohranjati prožnost in slediti žrtvi.

Razgovor je koristno začeti s tako imenovanimi odprtimi vprašanji, kot so: "Kakšna so vaša pričakovanja glede tega razgovora?" "Kako bi vam lahko pomagal_a?" Odprta vprašanja dajejo osebi možnost, da navede, o čem bi se rad_a pogovarjal_a. Kasneje med razgovorom, ko se želi strokovnjak_inja poglobljeno lotiti določene teme, je koristno postaviti nekaj usmerjenih vprašanj. Po začetnih odprtih vprašanjih se razgovor vedno bolj osredotoča na težavo, o kateri želi govoriti žrtev. Ker je zbiranje informacij eden od ciljev razgovora, je pomembno, da se izognemo usmerjenim vprašanjem in pazimo, da ne vplivamo na odgovore s tonom glasu.

## Metode jasne komunikacije med razgovorom

### Parafraziranje, razlaganje in reflektiranje

Parafraziranje je metoda, s katero strokovnjak_inja povzame žrtvine besede s svojimi besedami, ponavadi v skrajšani obliki. Namenov parafraziranja je več: strokovnjak_inja preveri, ali je pravilno slišal_a in razumel_a žrtev, žrtev pa sliši, kaj je strokovnjak_inja povedal_a in ima priložnost razmisliti o teh vprašanjih. Parafraziranje poglablja odnos med strokovnjakom_injo in žrtvijo, saj žrtev upravičeno meni, da je slišana in razumljena.

### Preverjanje in osredotočanje

Med razgovorom mora strokovnjak_inja večkrat preveriti, ali tako on_ona kot žrtev enako razumeta določene izraze (ali imajo za oba_e enak pomen) ter tudi večkrat preveriti, ali pravilno razume, kaj želi žrtev sporočiti. Ko strokovnjak_inja domneva, da želi žrtev doseči določen cilj, je pomembno, da takšno domnevo preveri z žrtvijo. Šele ko predpostavko preveri v pogovoru z žrtvijo, jo lahko uporabi pri reševanju težave. Osredotočanje služi natančnejši in bolj ozki opredelitvi obsega in smeri skupnega dela.

### Informiranje

Strokovnjak_inja posreduje informacije žrtvi, da bi razširila znanje o svojih pravicah in o storitvah, ki so na voljo. Kadarkoli namerava strokovnjak_inja samostojno sprejeti ukrepe, za katere meni, da so koristni za žrtev, je treba žrtev o takšnih morebitnih dejanjih obvestiti in jo zaprositi za njeno privolitev.

Ključni elementi pri ustvarjanju vzdušja, ki spodbuja uspešno delo z žrtvami travme, so **zaupanje, zanimanje in odnos, ki temelji na enakosti.**

**Posledice travme, ki lahko vplivajo na proces razgovora:**

### Manko kronološkega zaporedja v pripovedi

Zaradi razdrobljene narave travmatičnega spomina travmatična zgodba ni povezana ne vsebinsko ne časovno. V izjavi travmatizirane osebe se dogodki povezujejo glede na travmatske sprožilce in ne glede na časovno in vzročno-posledično logiko.

### Ponavljanje pripovedi o travmi

Travmatizirana oseba bo večkrat ponovila dele pripovedi o travmatičnem dogodku, dokler se ji ne bodo v pogovoru vzbudili isti ali podobni občutki, ki jih je doživela med travmatičnim dogodkom. Razlog za takšen odziv je čustveno olajšanje, ki ga človek doživlja v skladu z načelom "Kar se doživi drugič, omili eno od prvih izkušenj.„ Zdravilna "korektivna izkušnja" takega postopka je, da oseba enaka ali podobna čustvena stanja ponovno doživi v varnem in nadzorovanem okolju, kar osebi omogoča, da postopoma okreva po travmatični izkušnji.

### Spoštovanje mej

Ker je nekaterim žrtvam travma ogrozila telesno integriteto, je potrebna še posebna pazljivost pri vsakem, četudi dobronamernem, dotiku žrtve. Priporočljivo je, da se med razgovorom ne dotikate žrtve, čeprav gre za spontane, prijateljske dotike. Če pa se strokovnjak_inja želi, na primer, dotakniti roke žrtve ali jo objeti, da bi ustvaril_a dodaten občutek varnosti, naj predhodno vpraša žrtev za dovoljenje.

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**PRIPOROČILA ZA POGOVOR Z ŽRTVIJO**

**1. Ne škoduj**
Ne opravljajte pogovorov, ki bi lahko, kratkoročno ali dolgoročno, poslabšali položaj žrtve.

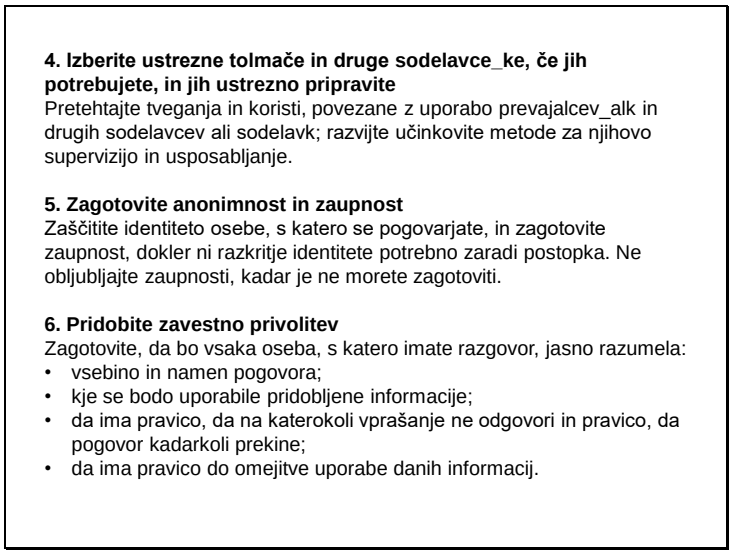
**2. Poznajte svoje področje in ocenite tveganje**
Pred začetkom razgovora se seznanite s tem, katera tveganja so povezana s posameznim kaznivim dejanjem in z vsako posamezno žrtvijo.

**3. Pripravite informacije za napotitve**
Ne ponujajte nasvetov in ne obljubljajte, česar ne morete izpolniti. V maternem in lokalnem jeziku (če gre za različna jezika) imejte pripravljene informacije o ustrezni pravni in zdravstveni pomoči, zavetiščih, varnih hišah, socialni podpori in varnostnih storitvah ter po potrebi zagotovite pomoč pri napotitvi.

Posebna občutljivost je potrebna pri delu z žrtvami nasilja, saj so bile njihove meje v preteklosti najverjetneje pogosto kršene. Možno je, da so bile njihove meje kršene tako pogosto, da so obupale nad tem, da bi jih sploh še „branile". Zato je zanje pomembno, da se začnejo ponovno zavedajo zasebnosti, svojih mej in kršitev mej. Poudariti moramo, da so meje lahko tudi simbolične, torej da ne gre le za prostorske meje, temveč se nanašajo tudi na spoštovanje človekove zasebnosti, čustev in mnenj. Ljudi njihove meje določajo, vsaka oseba ima svoje meje, ki se razlikujejo od mej drugih oseb. Obsegajo celoten spekter različnih mej, ki jih določajo vedenje, vrednote, ideje, spomini itd., s katerimi se človek svobodno spoprijema s svetom, ki ga obdaja, kot tudi s svojim

notranjim doživljanjem (Polster ad Polster, 1973). Prepustnost meja omogoča spremembe (osebnostno rast in razvoj), medtem ko njihova trdnost omogoča osebno avtonomijo.

Slide 6

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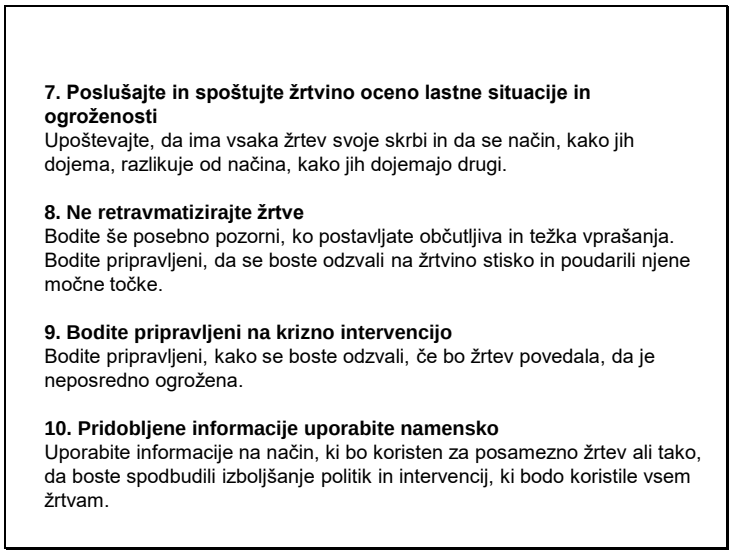
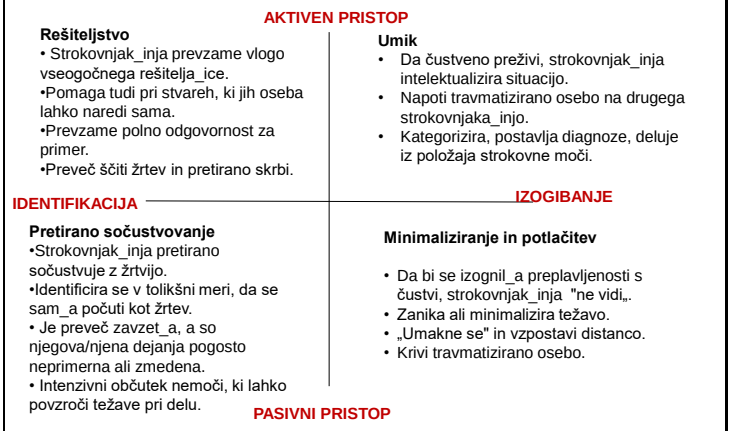


Slide 8

## NEUSTREZEN POLOŽAJ STROKOVNJAKA_INJE

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## PRIMERNA, EMPATIČNA POZICIJA STROKOVNJAKA_INJE

- Biti empatičen pomeni biti ob žrtvi in ne biti namesto nje.
- Upoštevajte, da vsaka oseba počne najboljše, kar v danem trenutku zmore.
- Sprejmite žrtev z vsemi njenimi potrebami.
- Ravnajte spoštljivo, strokovno, empatično in brez diskriminiranja.
- Upoštevajte telesno, duševno in moralno integriteto ter dostojanstvo žrtve.
- Krepiti moč pomeni predati žrtvi nadzor in ji omogočiti, da same odločajo, sprejemajo odločitve in ukrepajo.

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KAKO PRISTOPITI K ŽRTVAM, KI SO OSEBE Z OVIRAMI

SPLOŠNA NAČELA PRISTOPANJA K OSEBAM Z OVIRAMI:

- NE STRMITE, TO VSAKOGAR SPRAVI V NELAGODJE
- IZOGIBAJTE SE POMILOVANJU
- KOMUNICIRAJTE NEPOSREDNO Z OSEBO, TUDI ČE JE POLEG NJEGOV/NJEN OSEBNI ASISTENT_KA ALI DRUG SPREMLJEVALEC_KA
- VPRAŠAJTE, ALI OSEBA POTREBUJE POMOČ, PREDEN POMAGATE – NEPOTREBNA ALI NEŽELENA POMOČ LAHKO KRNI DOSTOJANSTVO IN VARNOST OSEBE

Osebe z ovirami niso homogena skupina. Vsaka vrsta oviranosti ima svoje značilnosti in prinaša različne potrebe.
Zato je dobro spoznati individualne potrebe posameznika in jih ne domnevati.
Vseeno pa veljajo nekatera splošna načela pristopanja k osebam z ovirami.

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UPORABLJAJTE JEZIK, KI NA PRVO MESTO POSTAVI ČLOVEKA, NE OVIRANOSTI

| | | |
|---|---|---|
| „**Osebe z ovirami**“ | in ne | „invalidi“ |
| „**Ljudje, ki ne vidijo**“ | in ne | „slepi“ |
| „**Ljudje, ki ne morejo govoriti**“ | in ne | „nemi“ |
| „**G. Novak ima diabetes**“ | in ne | „G. Novak je diabetik“ |
| „**Fizična oviranost**“ | in ne | „fizična deformacija“ |
| „**Ljudje s težavami v duševnem zdravju**“ | in ne | „duševno bolni“ |

Ljudje z ovirami so kot vsi drugi. Z uporabo jezika, ki na prvo mesto postavlja osebo, ne oviranosti (*People First Language)* krepite osnovno pravico ljudi z ovirami, da se naslavlja v prvi vrsti njih kot ljudi ne pa njihovo oviranost.

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KAKO PRISTOPITI K ŽRTVAM, KI NE VIDIJO ALI SLABO VIDIJO (I)

- Predstavite se
- Opišite prostor, v katerem se nahajate - bodite natančni: „Miza je pred vami“ in ne „Miza je tu“
- Če je v prostoru več ljudi, naj se vsak predstavi, vsakega, ki mu date besedo, naslovite z imenom
- Govorite naravno, ni potrebe po glasnem govorjenju
- Zagotovite pa, da ne boste v glasnem prostoru, da vas bo oseba lahko dobro slišala

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KAKO PRISTOPITI K ŽRTVAM, KI NE VIDIJO ALI SLABO VIDIJO(II)

- KO VODITE OSEBO, KI NE VIDI ALI SLABO VIDI:
- Hodite ob njej, pol koraka pred njo
- Ne primite je za roko, dovolite njej, da vas prime za roko
- KO VODITE OSEBO, KI NE VIDI K SEDIŠČU
- Najprej vprašajte, ali jo lahko k sedišču vodite tako, da nanj položite njeno dlan. Če se strinja, položite njeno roko na hrbtišče stola, da se bo lahko usedla
- Če stol nima hrbtišča, položite njeno roko na sedišče

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## KAKO PRISTOPITI K ŽRTVAM, KI NE VIDIJO ALI SLABO VIDIJO (III)

**V POSTOPKU**

- Vprašajte, kakšno podporo oseba, ki ne vidi ali slabo vidi, potrebuje
- Vprašajte, v kakšni obliki bi želela v postopku prejemati pisne dokumente, do katerih je upravičena:
- Če oseba bere Braillovo pisavo, zagotovite pisanja v tej obliki
- Če oseba slabo vidi, vprašajte v kakšnem formatu želi prejeti dokumente (npr. pogosto se uporablja **odebeljen** font Arial 12)
- Če oseba želi prejeti pisanja v elektronski obliki, vprašajte, v kakšnem formatu jih želi

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## KAKO PRISTOPITI K ŽRTVAM S TEŽAVAMI V GOVORNI KOMUNIKACIJI

- Dovolite, osebi, da govori. Morda bo govorila počasneje, kot ste navajeni.
- Ne zaključujte stavkov namesto nje in ne priganjajte
- Če niste razumeli, prosite, da povedano ponovi
- Ne pretvarjajte se, da ste razumeli, če niste
- Če ne razumete, vprašajte, če bi lahko nekdo, ki mu oseba zaupa in jo ta razume, pomagal pri komunikaciji tako, da ponovi besede, ki jih oseba izreče
- V POSTOPKU:
- Vprašajte, kakšno podporo oseba potrebuje
- Zagotovite zadostne odmore

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KAKO PRISTOPITI K ŽRTVAM, KI NE SLIŠIJO ALI SLABO SLIŠIJO (I)

- Vprašajte osebo, kako želi komunicirati
- Obrnite se tako, da vas bo oseba lahko videla in morda brala z ustnic, ne zakrivajte svojih ust z roko
- Govorite počasi, če oseba bere z ustnic ali slabo sliši
- Govorite jasno in z normalno glasnostjo, ne vpijte
- Če slabo sliši, bodite blizu nje, zagotovite tih prostor brez motenj, ki je zadosti osvetljen
- Govorite neposredno z osebo in ne z drugimi, ki jo spremljajo (tolmač, družinski član)
- Imejte pri sebi papir in svinčnik, če bi morali komunicirati pisno

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KAKO PRISTOPITI K ŽRTVAM, KI NE SLIŠIJO ALI SLABO SLIŠIJO (II)

V POSTOPKU:

- Vprašajte, kakšno podporo oseba potrebuje
- Če je potrebno, zagotovite tolmača za znakovni jezik
- Zagotovite informacije v pisni obliki

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## KAKO PRISTOPITI K ŽRTVAM Z GIBALNO OVIRANOSTJO (I)

- Vedno govorite z osebo in ne z njenim spremljevalcem
- Če oseba uporablja voziček, se med pogovorom usedite tudi vi, zlasti med daljšim pogovorom
- Vprašajte, ali želi, da ji pomagate tako, da potiskate voziček
- Ponudite pomoč pri odpiranju vrat

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## KAKO PRISTOPITI K ŽRTVAM Z GIBALNO OVIRANOSTJO (II)

V POSTOPKU

- Vprašajte, kakšno podporo oseba potrebuje
- Zagotovite fizično dostopen prostor (dvigovanje in prenašanje osebe v prostore, ki ji niso fizično dostopni, krši njeno dostojanstvo in ogroža njeno varnost)
- Omogočite ji, da jo v postopku spremlja nekdo, ki mu zaupa oz. osebni asistent
- Zagotovite zadostne odmore

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KAKO PRISTOPITI K ŽRTVAM, KI IMAJO TEŽAVE V DUŠEVNEM RAZVOJU OZ. SE SOOČAJO Z INTELEKTUALNO OVIRANOSTJO(I)

- Upoštevajte, da obstajajo različne stopnje težav v duševnem razvoju oz. intelektualnih oviranosti
- Bodite pristni
- Vzemite si čas in ustvarite medsebojno zaupanje
- Govorite jasno, v kratkih stavkih in s preprostimi besedami
- Če je treba ponovite ali preoblikujte povedano
- Ne govorite otročje in ne pretiravajte
- Pomagajte si z gradivi v obliki lahkega branja
- Zagotovite miren prostor za pogovor
- Vzemite si čas in ne priganjajte
- Preverite, ali je oseba razumela, kar ste povedali – lahko jo prosite, da s svojimi besedami ponovi povedano

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KAKO PRISTOPITI K ŽRTVAM, KI IMAJO TEŽAVE V DUŠEVNEM RAZVOJU OZ. SE SOOČAJO Z INTELEKTUALNO OVIRANOSTJO(I)

V POSTOPKU:

- Vprašajte, kakšno podporo oseba potrebuje
- Omogočite ji, da jo v postopku spremlja nekdo, ki mu zaupa
- Zagotovite zadostne odmore
- Zagotovite pisne informacije v obliki lahkega branja

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## KAKO PRISTOPITI K ŽRTVAM, KI IMAJO TEŽAVE V DUŠEVNEM ZDRAVJU OZ. PSIHOSOCIALNE TEŽAVE (I)

- Če se oseba vede drugače, kot ste vajeni, je lahko to povezano s specifikami težav v duševnem zdravju, ki jih ima – težave v duševnem zdravju so zelo različne in imajo različne značilnosti, v vsakem primeru pa velja:
- Vzemite si dovolj časa za komunikacijo, ne obsojajte, ne priganjajte
- Bodite mirni in potrpežljivi
- Spoštujte osebni prostor
- Ne jemljite stvari osebno
- Govorite jasno, v kratkih stavkih, z običajno glasnostjo in tonom

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## KAKO PRISTOPITI K ŽRTVAM, KI IMAJO TEŽAVE V DUŠEVNEM ZDRAVJU OZ. PSIHOSOCIALNE TEŽAVE (II)

V POSTOPKU:

Vprašajte, kakšno podporo oseba potrebuje

Omogočite ji, da jo v postopku spremlja nekdo, ki mu zaupa

Zagotovite zadostne odmore

Zagotovite pisne informacije v obliki lahkega branja

# *II. PROJECT RESULTS FOR THE REPUBLIC OF SLOVENIA*

## *1. Research Report with Recommendations*

### *1.1. Project Description*

Project “ARVID - Advancing Access to Rights under Victims' Directive for Persons with Disabilities” is financed by the Justice Programme of the European Union, and is being implemented in Croatia and Slovenia. The Croatian Law Centre serves as the coordinator, and the partners are: Ministry of Justice (HR), Ombudsman for Persons with Disabilities (HR), Victim and Witness Support Association (HR), Peace Institute (SI), and ALTRA Association (SI). The project is supported by the Human Rights Ombudsman (SI).

The project aims to investigate the level of participation of persons with disabilities in the criminal justice proceedings, in the capacity of victims, as well as the potential problems limiting their full participation and enjoyment of rights.

The results of the research will be utilized to:

(a) develop and advocate for improved support services for persons with disabilities, as well as all the necessary adjustments; and

(b) develop knowledge and tools for the direct use by persons with disabilities who are victims of crime, and by professionals and institutions whose role is to assist them in gaining full access to the rights guaranteed by the Directive 2012/29/EU (Victims’ Directive).

The project encompasses the following activities:

1. Survey and interviews with persons with disabilities, and with the representatives of the associations representing them, to identify the problems facing these individuals in accessing their rights as victims of crime, and to develop the recommendations on the ways to eliminate or minimize those problems and barriers.

2. Development of information materials for persons with disabilities on accessing their rights as victims of crime.

3. Development of training modules for: (a) professional stakeholders in the justice system with mandates related to individual aspects of the victims' rights for persons with disabilities; (b)

representatives of umbrella organizations of persons with disabilities, and other organizations supporting persons with disabilities in accessing their rights under the Victims' Directive. Information modules and materials to be used by ombudsman institutions in HR and SI for informing and training official stakeholders on the rights of persons with disabilities in the justice system will also be produced.

4. Dissemination and advocacy, including an international conference, meetings with relevant stakeholders in HR and SI, development of information materials and their dissemination in the participating countries and in the EU.

### *1.2. Research Goals*

In the period from 1 March 2020 to 1 May 2021, the Peace Institute conducted a survey and structured interviews with persons with disabilities who are victims of crime, two focus groups and received four completed questionnaires of associations of persons with disabilities. The aim of the research was to investigate the level of participation of persons with disabilities as victims and witnesses in criminal proceedings, as well as possible problems that limit their full participation. The Peace Institute prepared an online survey with the aim of examining the representation of persons with disabilities among victims of crime and misdemeanours.

The survey questionnaire was used to sample the respondents for the second part of the research. The second part of the research comprised of semi-structured interviews with people with disabilities to identify problems they face in accessing their rights as victims of crime, and recommendations for their elimination. Due to a smaller number of interviewees than planned, as an additional source of data on the subject of the research, two focus groups were conducted with civil society organizations that provide free legal aid to the general population and with associations of persons with disabilities that provide assistance and support to their members.

As planned by the project, the research also conducted interviews with associations representing persons with disabilities by sending them a questionnaire by e-mail, which the associations in question filled out and submitted.

The questionnaire for associations is intended as a complementary source of information on the position of persons with disabilities in the criminal justice system and possible obstacles to their exercise of rights under the Victims' Directive, but also as an opportunity to start researching the possible role of these organizations in providing support to victims.

### *1.3. Research Methods, Sample and Subjects*

#### a) Survey

From 1 June to 31 December 2020, the Peace Institute conducted an online survey to investigate the level of participation of persons with disabilities as victims and witnesses in criminal proceedings. The survey was also intended to be the primary recruitment channel for the semi-structured interviews with persons with disabilities who are victims of crime.

For the dissemination of the survey, we approached different CSOs representing persons with disabilities to help us circulate the survey among their members and users of their services. To reach as many possible respondents, including persons with disabilities that do not engage with CSOs, we disseminated the survey by using Peace Institute webpage and social media, including a paid Facebook ad to reach as many respondents as possible. The survey was also disseminated through the Human Rights Ombudsman webpage.

The opening text of the survey was clicked on 709 times and the survey was opened 102 times. The survey was completed by 82 respondents, 43 confirmed that they were victims of crime. Out of these, 68 % stated that they were persons with disabilities. Most of the respondents stated that they have chronic diseases (12 %), 10 % replied that they had psychosocial disabilities, 9 % stated they have a movement impairment, 7 % stated visual impairment, 7 % hearing impairment, 7% problems in speech communication, 6 % brain damage or impairment, 5 % autism spectrum issues, 2 % stated that they have more than one type of disability.

The majority of respondents stated that they experienced threats (17 %); 15 % stated that they were victims of violence or bullying; 11 % bodily injury; 10 % hate crime based on personal circumstances; 9 % fraud; 9 % sexual violence; 7 % family violence; 6 % theft; 4% robbery; 4 % traffic crimes/ offenses; 1 % trafficking in human beings / enslavement; 1 % burglary; and 7 % stated that they were victims of other crimes and listed blackmailing, mobbing and defamation.

We asked the respondents whether they reported the crime to the police or state prosecutor's office and 67 % replied that yes, they reported the crime; and 33 % responded that they did not.

Only six (6) respondents replied that they wish to participate in our research via a semi-structured interview, however only four (4) submitted contact information.

The data on the level of participation of persons with disabilities as victims and witnesses in criminal proceedings collected through the survey was supplemented with information gathered at the focus groups (see point c) of this chapter).

### b) Semi-Structured interviews

Since only four respondents of the survey agreed to participate in the interviews and only three of them actually responded, the respondents for the interviews were recruited by multiple contacts with CSOs supporting persons with disabilities, CSOs supporting victims of violence and CSOs providing legal aid, by contacting centres for social work, publishing a public call for interviews published on the web pages and social media pages of the Peace Institute and Association Altra, and employing professional and personal networks of both Slovenian project partners and the project team. Approached stakeholders mostly responded that they are not aware of any persons with disabilities who are victims of crime or that personal data protection rules are preventing them from providing contacts. The time of the ARVID fieldwork was also a time of the COVID-19 pandemic and as a consequence our work was significantly hindered by the measures imposed by the Slovenian government to reduce the number of infections and the spreading of the virus. This meant even harder access to our target population on the one hand, but also much lower general response rate and engagement by the relevant stakeholders in the field, since people were simply overwhelmed and unable to meet with us in person. The response of potential interviewees was therefore much lower than initially planned, as we intended to conduct 20 interviews.

Prior to conducting the interviews, the team of interviewers underwent a two-hour online discussion and in-depth training on the rights of victims of crime, the objectives of the research, and studied in detail the protocol for conducting the interviews. Since the interviewers are also all at the same time project team members and the Peace Institute is a partner with years of experience in conducting interviews for research purposes, also with vulnerable populations, we were able to prepare the Altra project partners for the fieldwork and instruct them on any potential issues that might arise. After conducting the first round of interviews, additional project meetings were organized among the Slovenian team members in order to discuss in detail our experiences with conducting the interviews and deliberate on any open questions that might have arisen. The most pressing was immediately obvious difficulty of reaching the target number of interviews and we held extensive discussions regarding access and possible troubleshooting solutions.

Overall, ten persons were interviewed in the period between October 2020 and April 2021. One interview was consequently taken out of the sample because it transpired that the person interviewed experienced the procedures involving the police etc. in a country that is not Slovenia.

Out of nine (9) persons interviewed, five (5) listed having psychosocial disability (mental health, mental development), two (2) are persons with chronic disease, as well as also listing psychosocial disability, one (1) noted visual impairment, and one (1) has movement impairment. Six (6) participants were women and three (3) were men. They were between 25 and 55 years of age, though not all of the interviewees would share their exact age with the interviewer. Three (3) reside in Ljubljana, one (1) in Maribor, and five (5) did not wish to disclose their place of residence.

Three (3) were victims of fraud, one (1) was a victim of grand larceny, one (1) was a victim of domestic violence, two (2) were victims of sexual violence, two (2) were victims of threat.

The interviews lasted from approximately 1 to 1.5 hours. They were audiotaped and the interview report was written according to the agreed ARVID project format and procedure. For each interview, a detailed report with the interviewers' observations was prepared.

Interview protocol covered the areas of the provision of information on rights, referral to and usage of support services. In addition to respondents' experiences and perceptions, information was collected on their assessment of the above aspects of their participation in criminal and/or misdemeanour proceedings with a specific focus on their needs in relation to their specific disability. The protocol was designed in a way to allow for the collection of data on information provision in various stages of the proceedings, as applicable in individual cases. Thus, information on victims' interactions with the police, state attorney and judge was collected separately.

**Methodological issues**

As a general comment, we should note that in some cases the respondents did not remember the procedure or facts very well, in some instances they were confused, some participated in several procedures (not necessarily as victims but also as perpetrators), etc. It is evident that the focus has mostly been on the initial phases of the proceedings (i.e. the procedures involving the police). We also could observe how most of the respondents are not sufficiently informed about their rights, the official procedures, as well as institutional jurisdictions and overall bureaucratic procedures, which leads to their experiencing social exclusion. Moreover, it is often the case that victims, especially ones with disabilities, are dependent on the defendants / perpetrators, which prevents them from reporting them or leads to abandonment of charges due to the lack of support. Also, victims may not self-identify as persons with disabilities, which is yet another reason for the lack of exercising their rights.

### c) Focus groups

As the response of potential interviewees was lower than planned, two focus groups were additionally conducted to fill gaps in understanding the problems faced by people with disabilities who are victims of crime. Thus, we invited representatives of civil society organizations that provide free legal aid to the general population or specific groups such as victims of violence and organizations that provide advocacy and support to persons with disabilities. It is considered that the staff of these organizations also have information on the position of persons with disabilities, who are also victims of crime or misdemeanours, and can contribute to creating insight into the subject of this research. In the focus group format, we were therefore able to learn about their

experiences in providing assistance to people with disabilities who are also victims, and thus also gathered information about potential problems and difficulties that these people face in criminal and misdemeanour procedures, as well as perhaps the reasons for their unwillingness to report it. It proved to be a valuable additional source.

The first focus group took place on 31 March 2021 and included six (6) participants, who are representatives of organizations that provide legal aid to the general population or specializing in offering legal aid targeting special groups, for example victims of domestic violence. In addition, we also conducted a separate interview with one of the NGOs that are legal aid providers, both to the general population and persons with disabilities, who were not available to attend the focus group.

The second focus group took place on 1 April 2021 and included seven (7) participants, experts on advocacy, that is representatives of various NGOs of/for persons with disabilities.

We asked the participants of the first focus group (legal aid organisations) how often they are approached by victims with disabilities. One participant stated that persons with various forms of disabilities – most often psychosocial disabilities – represent 50- 70 % of their clients each year. They are often victims of violence and sexual violence, usually these are younger persons, however they have recently been encountering an increased number of victims among the elderly. The psychosocial disabilities are often the result of long-term violence they have been suffering. Another participant mentioned that persons with disabilities rarely approach them in relation to crimes, usually they have questions related to labour and family law. One participant mentioned that approximately 15 % of their clients are persons with disabilities but they rarely approach them as victims of crime.

We asked the participants of the second focus group (CSOs advocating for the rights of persons with disabilities) how often persons with disabilities seek their help because they are victims of crime. One user said that victims with disabilities approach them with questions about access to a lawyer and whether to report the crime. Another participant mentioned that persons with movement impairment do not usually seek help from CSOs as victims. Usually they learn about it informally as the community is rather small and the word gets around.

### d) Questionnaire for CSOs supporting persons with disabilities

During the research period, questionnaires were sent to associations of persons with disabilities in order to collect data on the capacity of these associations of persons to take on a greater role in supporting victims among their beneficiaries and to cooperate with other bodies, institutions and organizations that are part of the criminal justice system.

The questionnaire for associations is intended to research the possible role of these organizations in providing support to victims.

We received four completed questionnaires.

Two organisations replied that they already have experience providing support to victims of crime. They provide information on rights and support, assist victims in communication, refer them to institutions providing specialised support and accompany victims to the criminal justice institutions.

Both organisations would be interested in expanding the support they provide. Two organisations who did not have previous experience supporting victims of crime expressed interest to provide such support. They would be interested in providing assistance in their mobility, informing them about their rights and available support, referring them to institutions that provide specialised support, advocating with the criminal justice institutions to facilitate victims' with disabilities participation in the proceedings and accompany them to the police, state prosecutor's office and court.

For these CSOs to be willing to refer their users to other organisations, these organisations would need to have experience in working with persons with disabilities, empathy, capability to communicate, appropriate access to their premises, good knowledge of the social protection system, legal system, institutions and available programs.

When asked what knowledge and skills would their organization need to be able to provide assistance and support to victims of crime, they responded that they would need to improve their knowledge of the criminal justice system, additional staff (lawyers, psychologists), additional funding and additional (accessible) office space.

### *1.4. Results*

a) The Police

I. Legal framework

Member States, including Slovenia, were obliged to transpose the 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 (hereinafter: Victims Directive) into national legislation by 16 November 2015.

The (full) implementation of the Victim's Directive in Slovenia was late. On 26 March 2019, the Act Amending the Criminal Procedure Act (*Zakon o spremembah in dopolnitvah Zakona o*

*kazenskem postopku*, CPA-N**)** was adopted.[2] One of the main goals of the adopted amendments was to fully transpose the Victim's Rights Directive. The amendments became applicable on 20 October 2019.

With the amendment new rights that were not available to victims before were introduced in the Criminal Procedure Act. Some existing rights were further elaborated and extended to the victims of crime or extended to new groups of victims.

The amendment extended the definition of a victim/injured party, so that it includes certain family members of a victim who died due to the criminal offence. A definition of a victim with special protection needs is added: a victim, whose personal or property right were significantly violated by a crime, because of his or her personal characteristics or vulnerability, because of the nature, gravity or circumstances of the crime or because of the behaviour of the accused or injured person in the pre-criminal or criminal proceedings (Article 144 of ZKP);

The obligation of the authorities to take into consideration the victims' vulnerability is included in the new Article 18.a of the CPA. In accordance with this provision, the police, state prosecutors, courts and other state authorities as well as court experts, interpreters and settlers have to treat the victims carefully and considerately, with regard to their age, health, vulnerability or other similar circumstances.

Upon the first contact, the police (as well as any other competent authority in pre-trial or criminal proceedings) must inform the victim about the manner of providing information on:

- free medical, psychological and other assistance and support;
- assistance and measures under the law governing the prevention of domestic violence;
- protective and other measures for ensuring personal security under this law and the law governing the protection of witnesses;
- the possibility to exercise their rights in connection with the proceedings through the intermediary services of an attorney;
- mandatory representation of right of minor victims when they are victims of criminal offenses against sexual integrity, marriage, family and children, enslavement and trafficking in human beings from the beginning of the criminal proceedings – a lawyer is appointed *ex officio* to minor victims who are without a representative;
- right to be accompanied by a person of trust during the pre-trial and trial procedure;
- the right not to have unwanted contact with the suspect or accused person, unless contact is strictly necessary for the successful conduct of pre-trial or criminal proceedings.
- the right to free legal aid under the law governing free legal aid;

[2] Slovenia, The Act amending the Criminal procedure act (*Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku*, ZKP-N), 26 March 2019.

- the possibilities for compensation for damages under CPA and under the law governing compensation to victims of crime;
- payment and reimbursement of the costs of proceedings of the victim;
- the right to interpretation and translation;
- the contact person of the competent authority with whom he / she can communicate in his / her case;
- any other rights or benefits that may be relevant to the injured party.

The scope and type of information depends on the personal characteristics and vulnerability of the victim, his/her special needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings (Article 65.a CPA).

Victims also have the right to be accompanied by a person of trust during the pre-trial and trial procedure. Before the amendment, this right was only granted to victims, who are minors or victims of violence. Now, this right can also be exercised by other victims if the severity or the nature of the offence, the victim's personal circumstances or the level of endangerment so requires (Article 65(4) CPA), which is particularly relevant for victims with disabilities. This right may be restricted, if the accompaniment is against the interests of the procedure or the victim.

The victim has the right to receive a written receipt that they made a criminal report (Article 147a CPA). The right to receive information on the status of pre-trial or criminal proceedings and final judgments upon request is also ensured. The competent authority must inform the victim of this right in pre-trial or criminal proceedings and record this in an appropriate manner in such a way that the police, the competent state prosecutor or a judge may be informed thereof. Information on the status of pre-trial or criminal proceedings can be provided via websites (Article 65.a(3) CPA).For this purpose, the Police has established an online application, which allows the victims to check at what stage the pre-trial proceedings against the alleged perpetrator are. The suspect's personal data will not be available, but information on whether the crime has been entered into the system, whether the investigation is still ongoing and whether a report or criminal complaint has been filed with the prosecutor's office. The victims enter their data in the required fields and receive an automatic notification from the official police records.

In accordance with the new Article 143č of the CPA, the Police makes an individual assessment that is used as a basis for the decision if and to what extent the victim would benefit from special protection measures as provided by the law. It is considered that minor victims always need special protection. The police make the assessment by asking the victim a set of questions based on a form, which was prepared by the working group, which was established by the Ministry of Justice (*Ministrstvo za pravosodje*) in 2019 to develop measures for the effective implementation of the new provisions of the Criminal Procedure Act transposing the Victims' Directive. An individual assessment is updated if its elements change significantly. The police prepare and update the individual assessment until a criminal complaint is filed or until they send a report to the state

prosecutor. The opinion of the competent centre for social work may also be obtained and examined when preparing or updating the assessment.

To protect their personal safety, the victims may request notification of the release or escape of the suspect or defendant from house arrest or from detention. They are informed of the right by the competent authority at the first contact in pre-trial or criminal proceedings. Notification may be refused if the suspect or defendant could be endangered as a result. The police or the court informs the injured party about the escape of the suspect or defendant from house arrest, and the court informs the victim about the release of the suspect or defendant from house arrest. At the request of the victim, the Centre for Social Work is also notified.

Victims have the right to translation and interpretation: essential documents must be translated upon the victims' request: summons, decisions to dismiss a criminal complaint, decisions to reject or refuse a request for an investigation, decisions to suspend proceedings, decisions to dismiss an indictment, judgments and instructions on the right to take over or to continue the prosecution (Article 8 CPA).

## II. Results of empirical research

Out of the 9 interviewees, all speak of having contact with the police.

Five contacted other people or institutions before contacting the police. Two respondents turned to NGOs for support. One respondent contacted his lawyer. One respondent relied on the support of her friends. One respondent told his mother that he had been a victim of crime. In three of these cases, the respondents then contacted the police themselves. In two cases, these other persons or institutions reported the crime to the police.

About half of them went to the police or had contact with the police alone, while the others had a friend or colleague or family member accompany them. In two cases, our interviewees speak of having the police come by their home, so they did not need to go to the police themselves.

In terms of access, none of the respondents mentions any difficulties. However, only one of the respondents has a movement impairment, but he did not need to go to the police station as the police came to his residence. He mentioned that the competent police station has access for persons with movement impairment, although this is rarely so, as only newer police station buildings have appropriate access for persons on wheelchairs.

Regarding the question whether they were alone talking to the police or was someone who accompanied them, also present, four (4) mention they were alone. Those who were alone when talking to the police, the police procedure (i.e., the process of taking the criminal report) was led

by either one or two police officers. Five (5) respondents had a person of trust present at the police interview.
When we asked them about having been informed of their rights, some said yes, and some said no. Four (4) interviewees confirm that they received absolutely no information regarding their rights from the police officers. The rest mention being informed of some rights.

Then we listed the rights to each interviewee:

• The right to particularly careful and considerate treatment if this is necessary for your health, etc.;

• The right to free medical, psychological and other assistance and support provided by social work centres and other organizations;

• The right to have a person of trust of your choosing who can accompany you in the proceedings;

• The right to be represented in the proceedings, who may be a lawyer;

• The right to be entitled to free legal aid under the Free Legal Aid Act;

• The right to be informed about the possibility of support and protection measures under the Domestic Violence Prevention Act;

• The right to avoid unwanted contact with the perpetrator;

• The right to be informed of the release or escape of a suspect or accused person from detention or house arrest in order to ensure your personal safety;

• The right to be informed of the state and progress of your case and your role in pre-trial or criminal proceedings;

• The right to file an indemnification claim;

• The right to take over prosecution if it is abandoned or not initiated by the state prosecutor;

• The right to appeal against the judgment.

The right to be represented in the proceedings, by a representative who may be a lawyer, was mentioned by one respondent, who notes that the information was also provided in writing (she was handed a piece of paper with said information). The same respondent also mentions that in this way the information regarding free legal help was given to her. Nobody else in our sample was informed of this right. In fact, when read the rights, one interviewee exclaimed: “No? Really?!” and indicating that knowing about this right would allow her to decide to report a lot sooner.

Only one of the respondents knew about the right to have a person of trust of your choosing who can accompany you in the proceedings and also exercised this right, yet we can observe that this right was actually enacted by three more respondents without their active knowledge of this being their right. One person was informed about the right to free medical, psychological and other assistance and support provided by social work centres and other organizations - she was handed a leaflet on which it was mentioned that she has the right to turn for help to the Social Work Centre.

Two interviewees were informed about the right to be informed of the state and progress of their case and their role in pre-trial or criminal proceedings. One person was informed about the right to file an indemnification claim, and another remembered the police officer telling her that she will be able to claim compensation in civil proceedings - instead of informing her of the possibility to claim compensation already in the criminal proceedings. The same person was informed of her right to take over prosecution if it is abandoned or not initiated by the state prosecutor, but she did not decide to do so. Altogether two (2) interviewees were informed about this right.

The right to appeal against the judgment was presented to one respondent.

It is important to note, however, that initially some respondents confirmed that they were informed of their rights, but when we read the list of rights to them during the course of the interview, they could not remember of actually hearing about these rights (thus it transpired that they were not actually informed of these rights). One respondent is adamant about knowing their rights ("*I know my rights"/ "Jaz poznam pravice"*) but during the interview it actually transpired that the rights were not read or told by the police. Hence the analysis shows that practically nobody was actually informed about the full extension of their rights as victims; not in conversation verbally, let alone in writing.

One of the respondents who said, he was not informed of his rights stated: "*No rights were… explained to me. Or, I didn't even know that I had any rights. Not orally not verbally.*" / *"Nobenih pravic mi niso… razložili. Oziroma, jaz sploh sam nism vedo, da mam kake pravice. Ne ustno ne pisno."* (Interview No. 3)

There is a notable confusion present in some of the interviewees regarding what papers they were given, what their rights were supposed to be and what is the focus.

For example, one interviewee stated that she was given a paper containing her rights. But further conversation revealed that the paper she received was the written record of her conversation with the police. When individual rights were read out to her during the interview, she did not remember hearing about any of them. (Interview No. 4)
One interviewee was confused about the rights he was informed about by the police and the rights he believes he still has after his legal capacity was taken away from him. In the continuation of the interview, he said that he was given a piece of paper but that the police did not explain anything to him orally. (Interview No. 9)

As mentioned, the most often exercised was the right to have a person of trust of your choosing who can accompany you in the proceedings; since four of the interviewees had a family member, friend or NGO representative present.

In terms of clarity regarding what the police officer(s) was/were talking about and regarding the interviewees understanding the procedure, our sample shows that these were in general understandable and clear. However, since the majority of them were not actually informed about their rights, it is impossible to discuss the clarity of the information provided. One respondent mentioned that it was not entirely clear what the police officers were talking about, and one found the police officers to be rather sloppy.

As one interviewee said: "*It would be very good, if they listed all these rights or told me about them, that they exist. I was missing that a lot! To know my rights in that moment a bit better*."/ *"Najbolj fajn bi bilo, da bi mi našteli vse te pravice oziroma da bi mi povedali za njih, da to je. To mi ful manjka! Da bi malo bolj poznala svoje pravice v tistem momentu.«* (Interview No. 6)

Regarding the police asking if our interviewees needed special protection during the procedure, feeling safe, or needing additional psychological or other medical help, only one stated that she was offered a gynaecological examination, however, she was a victim of sexual violence, which indicates that this was offered with the purpose of investigation, rather than ensuring her healthcare and wellbeing. The rest were not recipients of these additional services.

In Slovenia, support for victims is provided by social work centres. Help and support are also provided by certain non-governmental organizations, so we asked our respondents whether the police referred them to a social work centre or an NGO, and whether they showed them any written information with rights, which also listed the organizations they could call or advise them on which one would be best to contact. In our sample, they all negated receiving such information, apart from one respondent, who said that the possibility to go to a social work centre was mentioned on a piece of paper that she was given by the police. The police told her to read the information and use what is written.

Asking about the attitude of the police officers towards our respondents, enquiring if they thought that they tried to take into account their disability and meet their needs, the answers varied. Two respondents noted that the police officers treated them fairly and had no further comments regarding their attitudes. One described the attitudes of the police as understanding, and one as cordial and good. One noted that they attempted to meet his special needs. Since he is in a wheelchair, the police asked how he was feeling and gave him the right of way before other victims also queuing for the police interview (it was a group of victims of the same crime - garage burglary) so as to not leave him waiting for too long outside in the cold. On the other hand, when the police officers first approached him and his father, they patronizingly asked the father if the respondent can speak, which he found to be a sign of lack of knowledge and fear of disability: "I am noticing

that they are lacking the knowledge on how to approach (a victim)." / *Meni, da se je policist malo ustrašil drugačnosti. »Manjka jim znanja, opažam, kako pristopiti (žrtvi)«.* (Interview No. 9)

Three respondents noted a rather negative experience; one felt the treatment was unfair and pointed out that throughout the procedure he felt he was being punished, thus was the treatment he received from the police officers involved: " I j*ust think that in some way they were punishing me*." / *"Js pač mislim, da so me na nek način kaznovali."* (Interview No. 3)

Another respondent reported the police attitude was unprofessional: *"Odnos je.. .bom rekla po staro kmečko slovensko,.. kot da bi krave skup pasli."* (Interview No. 4)

The third respondent said that two female criminal investigators reduced her to tears: "*When I reported the crime, the first (female) criminal investigator, from the first procedure, was more kind, the other wasn't. But both of them broke me, when I reported, they made me cry*."/ *"Ko sem dala prijavo je bila prva kriminalistka, iz prvega postopka, bolj prijazna, druga bolj ne. A obe sta me zlomili, ko sem dala prijavo, spravili sta me do joka."* (Interview No. 8)

In one case, our respondent was in general content with the treatment by the police, but she pointed out the gender dimension. Because she was a victim of sexual violence, she noted that having a male police officer leading the police interview was inappropriate and she would feel much more comfortable explaining all the details to a female officer (especially since she needed to explain the same things several times):

*"They were otherwise OK, also with the question they asked… just maybe I would in this case prefer a woman, you know, not a man. I would rather have a female criminal investigator than a man. They were two of them, but she was writing the minutes and listening, but I talked to the man. And then I didn't know, could I perhaps say that I would prefer a woman - or not? It was not clear to me at the time. And that really wasn't OK, that I have to explain this to a man, that wasn't exactly pleasant for me." / »Drugače so bili tudi v vprašanjih, ki so jih postavljali, so bili ok ... samo mogoče bi jaz v tem primeru raje imela žensko, a ne, ne moškega. Raje bi imela žensko kriminalistko, ne moškega. Pač bila sta dva, ampak ona je pisala zapisnik in poslušala, pogovarjala sem se jaz z moškim. In potem nisem vedela, a bi mogoče jaz lahko rekla, da bi raje imela žensko – ali ne? To mi takrat nekako ni bilo jasno. In to ful ni bilo OK, da pač, da moram to moškemu razlagati, to mi ni bilo glih ravno prijetno.« (Interview No. 6)*

These findings were corroborated also by the two focus groups discussions. Speaking of actual cases that they have encountered during their extensive experience working with victims with disabilities, the respondents in focus groups also drew similar conclusions. At the focus groups, the participants pointed out that the first contact with the police is often inappropriate, particularly if the victim has psychosocial disabilities or difficulties communicating. This is even more obvious in cases, where the perpetrator is more articulated, and the victim is quickly perceived as 'insane' and 'clueless'. On the other hand, the victim should not be too confident: "T*he victim must cry just*

*the right amount, must be sad just the right amount and must be able to say things appropriately so that the police can write it down*."

The participants mentioned, that there is a lot of stigmatisation and discrimination from the police. Very often, when approaching victims with disabilities, they will first find out if the victim has their legal capacity or were they perhaps placed under guardianship. Their perception is, that persons with no or limited legal capacity cannot understand and participate in the proceedings. The police also do not wish to waste time talking to the victim, but they will prefer to talk to their guardian. This can be very problematic, as it is not so rare that guardians are actually perpetrators or they are pursuing their individual interests that may not be in line with the best interest of the victim.

### b) State prosecutors

#### I. Legal framework

As described under the chapter 1.a.I. (Police), the state prosecutors are also obliged to treat the victims carefully and considerately, with regard to their age, health, vulnerability or other similar circumstances.

They have the responsibility to inform the victims of their rights upon first contact, in accordance with the personal characteristics and vulnerability of the victims, their special needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings (Article 65.a CPA).

State prosecutors are also obliged to prepare the individual assessment of the victim in the continuation of pre-trial and criminal proceedings. Due to the preparation of an individual assessment, the state prosecutor's office may invite the injured party to the state prosecutor's office.

If the state prosecutor finds that there are no grounds to prosecute a criminal offence by virtue of office or he/she must within eight days inform the victim and instruct him/her that he/she may start prosecution by him/herself. The state prosecutor must also instruct the victim what may be done to exercise this right. The same procedure is applied by the court when the state prosecutor abandons prosecution. The victim is entitled to institute or continue prosecution within 30 days from the day he/she received the information.

Before the state prosecutor rejects a complaint for a criminal offense punishable by imprisonment for more than eight years, he/she must inform the victim in writing of this intention, and state the essential reasons for this decision and allow the victim to respond within 15 days and to provide any additional information and evidence regarding the validity of the suspicion that the suspect has committed a crime.

### II. Results of empirical research

Although five cases of our respondents progressed to trial, only one respondent reported having a contact with the state prosecutor by attending the meeting at the state prosecutor's office. She was accompanied by a representative of an NGO, but talked to the state prosecutor alone. She said that the state prosecutor provided information on her rights as a victim. She also mentioned that conversation was not recorded.

Other eight (8) interviewees said that they did not have any direct contact with the state prosecutor in terms of a meeting or an interview.

Two other respondents mentioned that they only had contact with the prosecutor during the trial. One of them mentioned that at every hearing there is a different state prosecutor present – there is not an appointed state prosecutor that would be in charge of her case and present at every court hearing.

Another respondent only mentioned that the state prosecutor rejected prosecution but that she did not decide to take over. Other respondents stated only that they did not have any contact with the state prosecutors.

The same holds true for focus group participants; where the state prosecutor's office was not debated and commented on.

## c) The Court

### I. Legal framework

As described under the chapter 1.a.I. (Police), the courts are also obliged to treat the victims carefully and considerately, with regard to their age, health, vulnerability or other similar circumstances.

They have the responsibility to inform the victims of their rights upon first contact, in accordance with the personal characteristics and vulnerability of the victims, their special needs for protection, the nature, gravity and circumstances of the crime and the stage of pre-trial or criminal proceedings (Article 65.a CPA).

The victims have the right to draw attention to all the facts during the investigation and to propose evidence that is relevant for the establishment of the criminal offense, the tracing of the perpetrator of the criminal offense and the establishment of their property claims (Article 59(1) CPA).

At the main hearing, they have the right to propose evidence, ask questions to the defendant, witnesses and experts, give comments and explanations regarding their testimonies, and make other statements and make other proposals (Article 59() CPA).

They also have the right to inspect the file and the material evidence. Victims may be denied the right to inspect the file until they have been interrogated as witnesses (Article 59(3) CPA).

The law also provides for the protection of victims during court proceedings.

The victims have the right to be accompanied by a person of trust, at least in cases where the severity or the nature of the offence, the victim's personal circumstances or the level of endangerment so requires (Article 65 CPA).

The courts must enable the victim to avoid unwanted contact with the suspect or the accused, unless the contact is indispensable for the successful conduct of pre-trial or trial procedure.

Some of the provisions intended for minor victims are extended also to vulnerable victims in need of protection. For example, the direct examination of persons under the age of 15 who were victims of sex offences, neglect and maltreatment of a child, human trafficking and enslavement is not allowed at the main hearing. In these cases, the court must decide to read the record of the previous hearing of those persons. If necessary, the court shall do the same with respect to other minor victims and to the victim with special protection needs (Article 331 CPA).

The individual assessment of the victim's needs for protection, prepared by the police and the state prosecutor's office, will be taken into account when ordering or determining protective measures, which may be:

- recording the hearing of a witness or injured party - a person under the age of 15 (84(1) CPA),
- interrogation with the help of an expert and in adapted premises (Article 240 CPA),
- protection of personal data of witnesses and interrogations using technical means, for example by providing a protective wall (Article 240.a CPA),
- hearing by videoconference (Article 244.a (1) CPA),
- exclusion of the public at the main hearing (Article 295 CPA).

There is also a possibility to use the mechanisms in accordance with the Witness Protection Act, which is a systemic law that enables the protection of important witnesses in serious criminal offenses if their life or the body or the life or body of another endangered person is seriously endangered and protective measures are necessary to avert danger.

## II. Results of empirical research

Five of our respondents mentioned that their case was tried in court.

One respondent did not remember any details regarding the criminal proceedings. He remembered only the court proceedings regarding his legal capacity.

One respondent was involuntarily placed in an institution at the time of the trial. He was summoned as a witness but it was then decided that he is not capable of participating (in his words), and that they would not bring him from the institution to the court, so he could not attend the hearing.

One respondent did not share much information about the proceedings, but expressed a lot of anger and disappointment with the whole process. She was attending the trial on her own, without a legal representative or a person of trust, while the perpetrator had a lawyer present. She felt that at the court they were not taking into account her disability.

Another respondent said that she was really disappointed with the trial and she regretted reporting the crime. The trial has been taking place for the last two years since the defendant is not attending the main hearing. She shared that her mother is usually attending the hearings with her, but because the mother is also a witness in the procedure, she cannot support her while she is being questioned. She is represented by a lawyer. However, she is very disappointed with his performance as she stated that the lawyer is only sitting there 'like a puppet' and does not do anything to protect her from the harassment from the defendant's lawyer. When she asked the lawyer why he does not protect her, he said that he cannot as the judge would punish him. She said that the defendant's lawyer is harassing her inside and outside of the courtroom: she is being interrogated by the defendant's lawyer sometimes over an hour and that he is very aggressive, deconstructing her every sentence and trying to show that she is lying. She made her cry in the courtroom twice and no one protected her. He also sent her a letter to her home address and demanded that she withdraws her case. She informed her lawyer of the letter but he did not do anything about it. She is also very disappointed in the judge. When her lawyer was not present on two occasions, she did not wish to testify. But the judge snapped at her that she will have to testify or she will be locked down until she does. The respondent says that she was questioned numerous times. When she asked the judge to read her previous statements as she does not wish to testify again, the judge also threatened to punish her. The respondent stated that the judge never informed her of her right to avoid unwanted contact with the perpetrator nor the right to pose questions to the defendant. According to the respondent, the judge does not allow her to comment or ask questions: "You are here to be asked, you are not here to ask questions." On the other hand, the defendant is allowed to ask her questions, although she is very afraid of him. The judge only informed her that she must notify any changes of her address to the court and that she has the right not to answer certain questions. However, when she refused to answer a question, she felt would endanger her family, the judge pressured her to answer. The respondent then replied that the judge herself informed of her right not to answer, and only then the judge backed down. (Interview No. 8)

One respondent also said she was not informed about her rights, only her obligations. She was represented by a lawyer during the trial. She commented that she was pleasantly surprised that

since she has a visual impairment, the judge enabled her to receive the written record of the hearing in Braille scripture. She felt that they took her disability into account and tried to meet her needs: "*What I liked about this judge is that he proposed (to use) Braille scripture for the written record. I said yes, because I was interested and I then actually got it over post. And it felt cool. Before that I didn't even know that it is possible to get it in that form. Because I could then have that option also with the police and get it that way." / »V bistvu mi je bilo na sodišču, pri tem sodniku, fajn, ker je predlagal Braillovo pisavo za zapisnik. Pa sem rekla JA, ker me je zanimalo in sem dejansko dobila potem to po pošti domov. Pa se mi je zdelo fajn. Ker do takrat sploh nisem vedela, da je to možno dobiti v taki obliki. Ker potem bi mogoče tudi na policiji lahko to možnost imela, da bi to dobila tako*.« (Interview No. 6)

At the focus groups, the participants pointed out that the courts do not know how to communicate with persons with disabilities: "The proceedings must go on and it does not matter who is part of it." The way the judges ask questions does not reflect the victims' characteristics; they question all persons in the same way.

The respondents also mentioned that the proceedings are very long. One respondent mentioned a case of her client, who was victim of sexual violence at the age of 15 or 16. She is now 20 years old but the proceedings at the first instance have not been concluded yet.

They also said that every victim must testify or give statements at least three times: at the police, during (judicial) investigation and at the main hearing.

One of the participants mentioned a case of their client, a victim of domestic violence who had a hearing impairment. The court refused to use protective measures that would prevent unwanted contact with the perpetrator during her testimony, although they are provided by the law.

### d. Other Services

#### I. Legal framework

Victims have the right to free medical, psychological and other assistance and support provided by social work centers and other organizations.

In addition to the health services provided by the public health system, the victim of the crime has the right to obtain professional support and expert advice from the competent social work center, as provided for in Article 65.a.(1)(1) of the CPA. NGOs can also help victims.

Regardless of whether the victim reports a crime, he/she has the right to support under the law governing social protection, which includes professional support and professional counselling. This support is provided by social work centers. This enables the victim to improve psychologically, socially and financially after suffering harm as a result of the crime.

## II. Results of empirical research

Only two respondents were referred to the social work centres. Other respondents were not informed of their right to seek support at the social work centres or at NGOs. One of them was just provided with a leaflet with information that included the information about the possibility to seek help at the social work centre.

Others were not informed or referred to support institutions. However, five other respondents were in contact with NGOs either prior to the proceedings or sought information about support (e.g. online) during the proceedings and then approached NGOs.

All but one were generally content with the support they received. One respondent stated that the social work centre could not help her and that they felt helpless. They offered to accommodate her at the crisis centre (in order to keep her safe from the assailant), but the respondent refused as she did not want to give up her life just to run from the defendant - it was not a case of domestic violence but serious threats were made against her and her safety. This speaks of a system where victims are not supported in terms of safety unless they remove themselves physically from the situation - which is a disproportionate disruption of their life and usually the victims refuse to do so or do so only as a very last resort (e.g. cases of severe domestic violence). She also approached an NGO but the person who was most supporting then left that NGO. When she approached the same NGO again, they said they could not accompany her to the court (which was her wish).

When asked what role organizations and associations of persons with disabilities should have, the respondents said that a stronger role would be very useful as they could make sure that persons with disabilities are understood and heard; and they could also provide information to persons with disabilities. However, they felt that these organisations would then need more staff and financial support, also they would need to be present in the entire state territory and not only in the capital or bigger cities.

When asked what could be done to improve the process of providing information, they said that there should be a network so that you know exactly where to turn for help and information; that easy-to-read, accessible formats should be provided; they also mentioned that the institutions would know how to listen and understand persons with disabilities better. and that they should listen better.

When asked who helped them most, some of them mentioned the support of NGOs and social workers. One respondent mentioned that she mostly turned to her lawyer for help. One respondent said that her psychiatrist helped and understood her most. They stressed the need to have a person of trust present who accompanies you, supports you and advocates for your rights.

e) General issues that are preventing the victims with disabilities to report crimes and/or to exercise their rights – Results from the focus groups

**1. Underreporting:**

The participants of our focus groups mentioned several reasons, why persons with disabilities do not report crimes:

- Crimes often take place in the family. This means that a person with disabilities is living with the perpetrator and is financially dependent on the perpetrator. Although the concept of personal assistance should provide a certain level of independence from family members who are often also the legal guardians of persons with disabilities, it is not always so in practice. Focus groups participants mentioned cases where a legal guardian is also a personal assistant which gives him/her total control over the person.
- Decision to report is a difficult one, but it is even more difficult to endure the process. At first, victims decide to report but then it takes a lot of time. Every summons, every hearing reminds them of their trauma.
- They are afraid for their safety. Protection orders are not efficient.
- They are not believed; they are not taken seriously.
- They are not aware that they are a victim. They do not realise that what is happening to them is a crime.
- Social exclusion – Victims with disabilities are often lacking a social network that would support them.

**2. Victims are punished, not supported**

Their disability is used against them. For example, persons with psychosocial disabilities are deprived of their legal capacity instead of being supported as victims. An example was mentioned when a person was a victim of fraud and in order to protect him 'from himself', he was deprived of his legal capacity and placed in an institution.

**3. Low level of awareness**

The police, state prosecutors and judges are generally not well aware of different types of disabilities and the implications on the persons' ability to communicate and participate in the proceedings.

**4. Communication and providing of information is inappropriate**

Information is not provided in full all or it is not provided in an understandable manner. Easy-to-read materials are not available.

**5. Premises are not accessible**

Our participants who provided legal aid mentioned that their premises are not accessible to persons with movement impairments. In such cases they had to find other solutions, sometimes they resorted to meeting the persons outside, if the weather allowed or searching for alternative locations. They also mentioned that victims with disabilities do not have the means of transportation to come to them; or the actual perpetrators were the only ones who could drive them to the consultations.

**6. Accompaniment by a person of trust is not provided for**

The issue is two-fold. One the one hand, participants mentioned that the authorities do not inform the victims with disabilities of this right or they do not allow them to have a person of trust present. On the other hand, this service is not accessible for many victims, as organisations that support them, do not have the staff or the finances to provide accompaniment. The victims themselves do not have the means to pay for such service.

**7. Advocacy is not integrated into the system**

There is no cooperation between institutions like the police or the court with organisations providing support, counselling and advocacy to persons with disabilities. Their presence and support is not regulated, it is up to the authorities whether they will allow it.

NGOs providing counselling and advocacy often have a lot of information about the persons case that would be useful for criminal justice authorities. They also have the required skills to communicate and obtain relevant information from their clients. They are capable of conveying information to the authorities and extracting what is relevant for the proceedings. They can act as a bridge between their client and their authorities, but they are not integrated in the system and are not formally assigned a role in the proceedings.

**8. Legal representation of victims with disabilities is not effective**

Legal aid is not easily accessible to victims with disabilities. In general, but even more so for victims with disabilities, it is difficult to fill out the application for legal aid. There is no support at the court legal aid service. The applicant is expected to do it on their own. Participants mentioned that even if experienced legal professionals help them fill out the form, the court will often demand additional information: "*And then I get the feeling that the court does not want to grant legal aid*!"

The legal aid system also works against people who have assets but do not have access to them, like persons in mental health institutions.

There is a general issue where people exceed the census for a few euros but are not eligible, at the same time they cannot afford a lawyer.

There is also a problem that lawyers who represent them do not have the necessary skills. Lawyers are not sensitive to the needs and obstacles faced by persons with disabilities, particularly when it comes to psychosocial disabilities. Appointed lawyers do not take the time or effort to explain the process in an understandable way.

Lawyers should understand their role as being their client's voice, but instead they are passive, leaving the conclusions to court experts.

### *1.5. Recommendations*

**1. Establishment of an effective support system for victims who are persons with disabilities**

Research has shown that victims with disabilities are less likely to choose to report crimes. One reason for this is that crimes often occur in the family and that the perpetrator is someone on whom the victim with disabilities is financially and otherwise dependent. Although the mechanism of personal assistance is supposed to provide a certain degree of independence from family members, who in some cases are also guardians of people with disabilities, it also happens that the same family member is both guardian and personal assistant, which means complete control over the person with a disability. Among other things, people with disabilities may experience social exclusion and consequently do not have a sufficient social network to support them, and they also lack information about their rights, sometimes even that what they are experiencing is a crime.

It is therefore necessary to establish an effective system of support for persons with disabilities who are victims of crime, which will take into account their specific needs and will enable the emancipated exercise of their rights.

**2. Access to premises**

The research pointed out that the premises of organs, especially when they are located in older buildings, are still difficult to access for people with disabilities.

Persons with disabilities must be given unhindered access to the premises of judicial authorities and institutions that provide them with assistance and support.

**3. Informing victims who are people with disabilities**

Some of the victims with disabilities we interviewed did not recall that any rights were mentioned to them by the authorities. Some interviewees only remembered some rights being mentioned. For example, only one of the interviewees recalled being informed by the police about the right to a

proxy who could be a lawyer. She mentioned that this was written on a piece of paper given to her by the police officers.

Representatives of the NGOs also mentioned that the information was not given comprehensively or was not given in an understandable way. Also, written information is not available in an easy-to-read and understandable form.

Information for victims with disabilities should emphasize rights specifically intended to protect vulnerable victims and ensure their participation in the proceedings. This information should include the right to psychological support and the possibility to turn to organizations that provide support and advocacy for people with disabilities.

Not only information on rights must be provided, but also detailed information on how to exercise them.

The police, the public prosecutor and the investigating and presiding judge must provide information to victims with disabilities repeatedly - at each stage of the criminal proceedings.

Information must be provided to victims with disabilities in an accessible and comprehensible manner, according to their needs, both orally and in writing, in an easy-to-read format. The information must also be available in Braille.

**4. Equal participation in proceedings**

The provisions of the Equal Opportunities for Persons with Disabilities Act (ZIMI) must also be applied and widely interpreted in criminal proceedings. Persons with disabilities should be able to submit all documents or be given access to all documents in the proceedings in an accessible and understandable form. People with visual and hearing impairments should be able to choose the form themselves.

**5. Training**

The interviewees in our study reported very different experiences with the authorities' attitude towards them during the procedure. Some were pleased, saying they were treated fairly and respectfully. One of the interviewees, who is a person with disabilities, mentioned that the officers were very respectful and kind to him and that they acted very considerately, however, they first spoke to his father and asked him if the interviewee could speak. The interviewee assessed this as a sign of lack of awareness and that the police officers were uncomfortable with his disability. Some interviewees were very unhappy with the attitude, they thought it was rude. Some feared that they would be punished. One of the interviewees said that she was broken by both the police and the court and made her cry.

The general approach to victims of obstructed crime must be respectful and attentive.

All stakeholders in criminal justice (police, prosecution, judiciary) as well as institutions providing support to victims of crime (social work centers) should receive regular and compulsory training on various forms of disability, the needs of persons with disabilities and appropriate communication. Particular attention should be paid to the special needs of victims with disabilities, enabling their independence and, at the same time, providing special assistance where necessary. Various stereotypes and prejudices regarding disabilities need to be addressed in order to avoid their effect on the treatment of victims in criminal proceedings.

**6. Protection of the personal safety and dignity of victims with disabilities**

One of the interviewees reported that she had to tell the details of the sexual violence to a male police officer, which made her very uncomfortable. Another interviewee said that she was very afraid of the perpetrator, but that the perpetrator could ask her questions in court without hindrance, and the court did not allow her to ask him questions. She mentioned that she had to testify in court several times. Her request to postpone her hearing was also rejected, as her attorney could not attend the hearing. Representatives of NGOs providing advocacy for people with disabilities reported that the authorities did not always allow them to be present as persons of trust in the proceedings and that they had to leave the premises.

Victims with disabilities should be properly identified as victims with special needs.

Victims with disabilities must always be allowed the presence of a person of trust - at all stages of the proceedings.

Courts and other criminal justice authorities should enable victims with disabilities to avoid unwanted contact with the accused and to use the possibilities of remote hearing and the use of a screen and other technical means to prevent direct contact.

Hearing of victims with disabilities should be recorded by appropriate technical means for audio or audio-visual recording, similar to that provided for juvenile victims. Victims with disabilities also need to be protected from repeating their testimony over and over again.

The right that the interview with victims with disabilities is conducted by a person of the same gender must also be respected.

**7. Legal representation and legal aid**

The interviewees in our study were not aware of the possibilities of free legal aid for victims. Representatives of the NGOs we spoke to said that access to legal aid is often very difficult, as filling out an application form for free legal aid is already a major challenge for people with disabilities.

However, they also reported that many lawyers do not have sufficient knowledge to represent victims with disabilities in criminal proceedings.

Providing information on the right to free legal aid needs to be strengthened. The availability of free legal aid needs to be improved, and support must be provided in the process of applying for free legal aid.

Consideration should be given to drawing up a special list of lawyers who have received training in the field of the needs of victims with disabilities, and who would primarily provide free legal aid to victims with disabilities.

**8. Inclusion of non-governmental organizations that bring together and support persons with disabilities in the system of support for victims of crime**

NGOs supporting people with disabilities are not included in the victim support system. There is also no cooperation between judicial authorities and non-governmental organizations that advocate for the rights of persons with disabilities. Their involvement thus depends on the individual official. Organizations that provide support and advocacy often have a lot of information on the matter that could benefit law enforcement agencies. They also have communication competencies to make it easier to obtain relevant information from victims with disabilities. They can be a bridge between their users and authorities, but because they are not formally included in the system, this potential is often not sufficiently used.

Organisations that provide support, counselling and advocacy for people with disabilities should be included in the victim support system.

It should be possible for them to cooperate with criminal justice authorities.

The state should provide sufficient funding to strengthen the capacity of these organizations, including to accompany victims at all stages of the process.

Support should be provided throughout the country, not just major urban centres.

## *2. Summary of Round Table/Advocacy Meeting Discussions with Stakeholders about the Project Recommendations*

### 2.1. Summary of Discussion

At the round tables and advocacy meetings the results of the project research and the recommendations that were made on the basis of the research results were presented. At the advocacy meetings we also presented the information and training materials that were produced in the continuation of the project.

During the discussion, participants noted that Slovenia has only transposed the Victims' Rights Directive into domestic law in 2019, and before that some procedures and some rights were not (as) precisely defined. The legislation now allows for the protection of victims' rights; however, the system of victim support needs to be further developed in the future.

Information needs to be provided to victims who are persons with disabilities, as well as to victims in general, in an accessible and understandable way.

Participants reported that police, prosecutors and judges have already received training, but there is a need for continuous training, including training on the needs of persons with disabilities, the characteristics of different types of disabilities, how to identify them and how to adapt the proceedings to their needs. Some of this content is already included in the training provided by the Centre for Judicial Training, the Police Academy and the Bar Academy of the Bar Association.

Participants agreed on the need to facilitate access to free legal aid. The first obstacle is the overly bureaucratic application procedure, as the application form is too complicated. Possible solutions lie in the digitisation of the procedure and also in the linking of records so that the legal aid services could consult and retrieve information on the applicant's income and assets on the basis of the applicant's tax number, which would represent a significant relief for clients.

A list of lawyers trained to work with clients who are persons with disabilities would be very useful. The Bar Academy is developing systems for continuing further training of lawyers. This would mean introducing a scoring system for mandatory training courses that a lawyer must attend in order to be able to work in a particular field.

Participants stressed that reporting a crime is particularly difficult and stressful for persons with disabilities and that victims often depend on family members and therefore find it difficult to report when crimes occur within the family circle. It is therefore very important that victims with disabilities who are dependent on perpetrators are properly identified by social work centres and other services.

Participants noted that for victims in general, and even more so for victims with disabilities, very long procedures are burdensome, so they often give up, and repeated hearings and questioning are very traumatic. Efforts should be made to minimise the number of hearings and to record them for this purpose. It should also be ensured that they can be accompanied by a person of trust during the procedure.

In order to ensure that the needs of victims with disabilities can be adequately addressed, the knowledge and measures to help and support victims should be strengthened and the network of institutions providing assistance should be reinforced. This would also be facilitated by the appropriate inclusion of CSOs supporting persons with disabilities in the victim support system, as their competences would help to better identify the needs of victims with disabilities, to improve communication and providing information, as well as to provide accompaniment in the role of a person of trust.

**2.2. List of advocacy events (in chronological order):**

1. Round table with representatives of state institutions (Ljubljana), 14 May 2021 at 10:00; Zoom
2. Round table with representatives of state institutions (outside Ljubljana), 14 May 2021 at 14:00; Zoom
3. Round table with representatives of civil society organisations (Ljubljana), 13 May 2021 at 10:00; Zoom
4. Round table with representatives of civil society organisations (outside Ljubljana), 13 May 2021 at 14.00; Zoom
5. Meeting with representatives of the General Police Directorate and the Police Academy, 8 September 2021 at 9:00.; at the premises of the Police Academy
6. Meeting with representatives of the Ministry of Justice and the Centre for Judicial Training, 9 September 2021 at 10:00; Zoom
7. Meeting with representatives of the Slovenian Bar Association, 10 September 2021 at 11:00; at the premises of the LMR Law Office
8. Meeting with civil society organisations supporting persons with disabilities, 13 September 2021 at 14:00; Zoom
9. Meeting with representatives of the National Council of Disabled People's Organisations of Slovenia (NSIOS), 14 September at 11:00; Zoom
10. Meeting with representatives of the Human Rights Ombudsman; 14 September 2021 at 13:00, at the premises of the Human Rights Ombudsman.

**2.3. Combined list of participants (in alphabetic order):**

*Dušan Bajuk, Association of Disabled Workers Ljubljana-Šiška*
*Nevenka Berdnik, District State Prosecutor's Office Maribor*
*Nika Cigoj Kuzma, Svizci Association*
*Franc Glušič, General Police Directorate*
*Barbara Jenkole Žigante, Supreme State Prosecutor's Office*
*Ana Kleč, Inter-Municipal Association of Persons with Disabilities of Goriška*
*Jernej Koselj, Ministry of Justice*
*Miha Kosi, Association of Students with Disabilities of Slovenia*
*Martina Košar, Society of the Physically Handicapped*
*Uroš Kovačič, Expert Service of the Human Rights Ombudsman*
*Deja Kozjek, Higher Court Ljubljana*
*Nina Koželj, Ministry of Justice*
*Marjeta Kreča, District State Prosecutor's Office Celje*
*Goran Kustura, National Council of Disabled People's Organisations of Slovenia (NSIOS)*

*Simona Lilek, Police Directorate Maribor*
*Daša Meglič, Ministry of Labour, Family, Social Affairs and Equal Opportunities*
*Mateja Meško Kaiser, Centre for Social Work Maribor*
*Uroš Miklič, LMR d.o.o., member of the Board of the Bar Association of Slovenia*
*Elena Pečarič, Association for Theory and Culture of Handicap - YHD*
*Vera Pelhan, Inter-Municipal Association of Workers with Disabilities Radovljica*
*Mihaela Perković Karadža, Police Directorate Kranj*
*Žiga Planinec, Police Academy*
*Nataša Skubic, Centre for Judicial Training, Ministry of Justice*
*Ivan Šelih, Deputy Ombudsman, Human Rights Ombudsman*
*Andreja Šepec, ŠENT Slovenian Association for Mental Health*
*Cvetko Tovornik, Svizci Association*
*Miro Vidic, Šmartno Intermunicipal Association of People with Disabilities*
*Damir Vindiš, District Court in Maribor*
*Andreja Virant, Centre for Social Work Ljubljana, Vič-Rudnik*
*Renata Žibert, District Court in Kranj*
*Nastja Žlajpah, Association of the Blind and Visually Impaired of Slovenia*
*Melita Žontar, Centre for Social Work Kranj*

## *3. Information Material for Persons with Disabilities*

### *3.1. Rights of European Union Citizens who are Victims of Crime*

**You have the right:**

- to be provided with information and support;
- to participate in criminal proceedings,
- to protection, and the right to particular protection if you are a victim with specific protection needs.

**The right to be provided with information and support includes the following rights:**

- right to understand and to be understood,
- right to receive information from the first contact with a competent authority,
- right to make a complaint with regards to a criminal offence in a language that you understand, or by receiving the necessary linguistic assistance,
- right to receive a written acknowledgement of your formal complaint you made to a competent authority, stating the basic element of the criminal offence concerned, in the language you understand (free of charge),
- right to receive information about your case: any decision not to proceed with or to end an investigation, the time and place of the trial and the nature of the charges against the

offender, any final judgment in a trial, and any information enabling you 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),

- right to be notified, at your request, when the person remanded in custody is released from or has escaped detention, and to be informed of any relevant measure issued for your protection,
- right to interpretation and translation in criminal proceedings,
- right to access victim support services,
- right to support from victim support services.

**The right to participate in criminal proceedings includes the following rights:**

- right to be heard,
- right to a review of a decision not to prosecute, unless such decision results in an out-of-court settlement according to the law,
- right to safeguards in the context of restorative justice services – the state must take measures to safeguard you from secondary and repeat victimisation, from intimidation and from retaliation,
- right to legal aid, when you have a status of a party in criminal proceedings,
- right to reimbursement of expenses,
- right to the return of property which is seized in the course of criminal proceedings, unless required for the purposes of criminal proceedings,
- right to decision on compensation from the offender in the course of criminal proceedings,
- if you have a residence in another Member State other than that where the criminal offence was committed, you have a right to make a complaint to the competent authorities of the Member State of residence, if you are unable to do so in the Member State where the criminal offence was committed, or, in the event of a serious offence (as determined by national law of that Member State), if you do not wish to do so.

**The right to protection includes the following rights:**

- right to protection from secondary and repeat victimisation, from intimidation and from retaliation, including protection against the risk of emotional or psychological harm, and to protection of dignity during questioning and when testifying,
- right to avoid contact with the offender,
- right to protection during criminal investigations,
- right to protection of privacy,
- right to particular protection during criminal proceedings, if you have specific protection needs,
- right to particular protection during criminal proceedings, if you are a child.

**Help and support**

In Slovenia, for immediate help call the **Police** at the Emergency Number 113.

Anonymous calls can be made to the Police number 080 – 1200.

Professional support to crime victims is provided by the **centres for social work**. The support aims at assisting the victims in improving their psychological, social and financial situation as a result of the crime. The centres for social work advise victims according to their individual needs and directs them to the forms of assistance and services available. The centres for social work contact details can be found HERE.

In addition to the centres for social work, some NGOs also provide support to crime victims. You can find the contacts of some of them HERE.

Victims can also contact medical staff (basic information about medical institutions: http://ustanove.zdravstvena.info).

If they feel their rights have been violated, victims of crime may contact the Human Rights Ombudsman by calling their **toll - free phone number 080 15 30** or writing to: info(at)varuh-rs.si.

### *3.2. Rights of Slovenian Citizens who are Victims of Crime*

**Who is a victim of crime?**

In Slovenian criminal proceedings, the term "injured party" is used for the crime victim.

**The injured party** is one whose personal or property right has been violated or threatened by a criminal offence. Therefore, a victim or an injured party is a natural person who has suffered harm, including physical, mental or emotional harm or economic loss directly caused by a criminal offence.

Victims are also **family members of the person** whose death was directly caused by a criminal offence and who suffered damage as a result of the death of that person: his or her spouse or a person with whom he or she lived in a cohabitation, his or her blood relatives, his or her adoptive parent, his or her siblings, and persons whom he or she supported or was obliged to support.

Some **injured parties have special protection needs**. A victim with special protection needs is a victim who has suffered significant damage as a result of a criminal offence, his or her personal characteristics or vulnerability, the nature, gravity or circumstances of the criminal offence or the conduct of the accused or injured party in pre-trial or criminal proceedings and **there is a special need to protect the victim's personal integrity** in individual acts in pre-trial and criminal proceedings.

**WHO I CAN TURN TO WHEN I BECOME A VICTIM?**

In Slovenia, for immediate help call the **Police** at the Emergency Number 113.
Anonymous calls can be made to the Police number 080 – 1200.
Professional support to crime victims is provided by the **centres for social work**. The support aims at assisting the victims in improving their psychological, social and financial situation as a result of the crime. The centres for social work advise victims according to their individual needs and directs them to the forms of assistance and services available. The centres for social work contact details can be found HERE.
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If they feel their rights have been violated, victims of crime may contact the Human Rights Ombudsman by calling their **toll - free phone number 080 15 30** or writing to: info(at)varuh-rs.si.

## RIGHTS OF VICTIMS OF CRIME

If you have become a crime victim, you are afforded certain rights under the Victims' Rights Directive and the Slovenian Criminal Procedure Act.

As a victim, you have rights even if the offender is not detected, arrested, prosecuted or convicted of the crime.

Some rights are afforded to you even if you do not report the crime – for example, the right to information and the right to professional support and advice.

However, some rights are related to your participation in criminal proceedings.

**All authorities (police, prosecutor's office, court and other authorities, experts, interpreters) are obliged to treat you with special care and consideration.**

## I. PROVISION OF INFORMATION AND SUPPORT

### 1. RIGHT TO INFORMATION

As a victim, you have the right to information from the first contact with the authorities (police, public prosecutor's office, court) on:

- The method of assistance you may receive and from whom – free medical, psychological and other assistance and support;
- Assistance and measures under the law governing the prevention of domestic violence;
- Procedures for making complaints with regard to a criminal offence and your role in connection with such procedures;

- How and under what conditions you may take safeguards and other measures to ensure your personal safety;
- The possibility of concealing information on address or residence;
- How and under what conditions you can access legal advice, legal aid and any other sort of advice;
- How and under what conditions you can access compensation;
- How and under what conditions you are entitled to interpretation and translation;
- The available procedures for lodging complaints where your rights are not respected by the competent authority operating within the context of criminal proceedings;
- The contact details for communications about your case;
- The settlement procedures available;
- How and under what conditions expenses incurred as a result of your participation in the criminal proceedings can be reimbursed.

All victims have the right to information – even those who have not (yet) formally reported the crime.

An information brochure is available to inform the crime victims about their rights. Learn more at https://www.gov.si/assets/ministrstva/MP/obrazci-odskodnine-zrtvam/Publikacije-pravice-zrtev-KD/Pravice-zrtev-v-kazenskem-postopku-slo.pdf

## 2. THE RIGHT TO UNDERSTAND AND TO BE UNDERSTOOD

The authorities must make sure that you understand the information as a victim. Therefore, they are obliged to provide information in simple and accessible language, both in writing and orally. In doing so, they must also take into account any circumstances on the part of the victim that may affect their ability to understand.

- PRESENCE OF A TRUSTED PERSONAL

Victims must be able to be accompanied in the proceedings by a person of their choice to help them understand the information or to help them to be understood.

A trusted person can be anyone whom the victim trusts (for example, a friend, relative, an NGO representative, etc.).

The authority may refuse the presence of a trusted person if this would not be to the benefit of the victim or would impede the successful conduct of the proceedings.

## 3. RIGHTS WHEN REPORTING A CRIME

As a victim, you have the right to receive a written confirmation that you have reported the crime to the competent authority (police, public prosecutor's office). In addition to your personal data, the certificate must also contain information about the crime and the damage caused to you by it. The confirmation of the report may also be a copy of the complaint if it contains all these elements.

- LANGUAGE ASSISTANCE

Victims who do not understand the language in which the proceedings are conducted may also be provided with language assistance by a person other than an interpreter who, in addition to the language of the proceedings, also understands or speaks the language understood or spoken by the victim. It is important that this person respects the privacy of the information they become aware of when providing language assistance. Language assistance cannot be provided by a person who may be a witness in the case or who may not be suitable for other reasons.

## 4. RIGHT TO RECEIVE INFORMATION ABOUT THE CASE

As a victim, you must be informed so that you can receive certain information about your case. You can receive information about the stage of the proceedings, the place and time of the trial, and any decision not to proceed with or to end an investigation or not to prosecute the offender. You also have the right to information on any final judgment in the proceedings.

You have the right to the information of the contact person at the body with whom you can communicate about the course of the procedure.

Crime victims can also obtain information on the course, stage and completion of pre-trial proceedings (underway at the police) via an online form available at https://www.policija.si/apps/obvescanje_oskodovancev/form.php.

## 5. RIGHT TO INTERPRETATION AND INFORMATION

As a victim, you have the right to use your mother tongue or a language you understand in the proceedings. If you do not speak or understand the language spoken in which the proceedings are conducted, you have the right to be assisted by an interpreter, free of charge. You also have the right to have translated the documents that contain essential information for you.

For victims, essential information is invitations, all information or decisions by the authorities that mean the termination of criminal proceedings in your case, as well as judgments and instructions that you have the right to prosecute if the public prosecutor abandons the prosecution or fails to initiate it.

At your request, the court may also provide interpretation and translation of other documents and acts, if this is necessary for the exercise of your rights.

## 6. RIGHT TO ACCESS AND SUPPORT SERVICES

As a victim, you have the right to access the free, confidential support services available to you before, during and a reasonable time after the proceedings.

Professional support to crime victims is provided by the **centres for social work**. The support aims at assisting the victims in improving their psychological, social and financial situation as a result of the crime. The centres for social work advise victims according to their individual needs and directs them to the forms of assistance and services available. The centres for social work contact details can be found HERE.

In addition to the centres for social work, some NGOs also provide support to crime victims. You can find the contacts of some of them HERE.

Victims can also contact medical staff (basic information about medical institutions: http://ustanove.zdravstvena.info).

## II. PARTICIPATION IN CRIMINAL PROCEEDINGS

### 1. THE ROLE OF THE VICTIM IN CRIMINAL PROCEEDINGS

As an injured party, a victim is afforded a special position in criminal proceedings.

As a victim and thus an injured party, you have the right to draw attention to all the facts during the investigation and to propose evidence important to establish the facts on the criminal offence, find the perpetrator and assert your property claim (in relation to the damage you suffered as a result of the criminal offence).

During the trial, you have the right to propose evidence, ask questions to the accused, witnesses and experts, give comments and explanations regarding your statements and other statements, and make other suggestions.

You have the right to inspect court files and evidence gathered both during the investigation and during the trial. This right can be denied to you by a judge until you are heard as a witness.

### 2. RIGHT TO BE HEARD

As a victim in criminal proceedings, you have the right to be heard and to present evidence. You need to be able to express your views and positions. Safeguards are available during the interrogation for victims who require them.

- SAFEGUARDS DURING THE HEARING

At the hearing of **juvenile victims and victims with special protection needs,** special care must be taken. If necessary, the hearing shall be conducted with the assistance of an appropriate expert (more information on victims with special protection needs can be found in section III.3 of this document). A person trusted by the victim may be present during the hearing. The hearing may take place in specially adapted premises.

Victims under the age of 15 who have been victims of criminal offences against sexual integrity, the criminal offence of neglect of a minor and the cruel treatment or the criminal offence of

trafficking in human beings may not be heard in a judicial investigation in the presence of the accused.

The accused may not be present at the hearing of a witness under the age of 15 who is a victim of any of the criminal offences referred to in Article 65 (3) of the Criminal Procedure Act. The interrogation shall always be recorded by sound or audio-visually, as the interrogation of these victims at the main hearing is not permissible, and only the record of the interrogation of the victim from the investigation shall be read. If necessary, the court also makes this possible for other juvenile victims and victims with special protection needs.

Victims may request that information on their address or residence is not disclosed to the defendant or other persons.

If necessary to protect the victim or his or her relatives, it may also be ordered that other victim's personal data be concealed and that a pseudonym be assigned to the victim. In such cases, the hearing shall be conducted by technical means such as a protective screen, a voice distortion device, the transmission of sound from a special room and the like.

If the victim requires special safeguards to prevent the victim from coming into contact with the accused, in particular protected witnesses, anonymous witnesses, witnesses who are abroad, as well as witnesses who cannot come to the authority for other justified reasons, a hearing with use of modern technical means for image and voice transmission must be available (videoconferencing).

During the interrogation of the victim, the public may be excluded to protect his or her privacy, which means that in addition to the parties to the proceedings, only individual officials may be present in the room, but no representatives of the public such as journalists may be present.

Victims are also protected by legal provisions that generally apply to the examination of witnesses:

- The judge shall forbid a question or answer to the witness (victim), if not related to the case, to avoid unnecessary interrogation in relation to the private life of the victim, which is not related to the criminal offence;
- The victim (or any witness) may refuse to be heard or be exempted from testifying if he or she is related to the accused (his or her spouse, cohabitating partner, mother or father, grandmother or grandfather, child, adoptive parent, adopted child, granddaughter or grandson or some other close relative). The same shall apply if he or she has an obligation of protecting official or military secrecy or is not required to provide information which he or she has learned in the course of his or her profession.
- The victim (or any witness) has the right to refuse to answer individual questions if it is likely that the answer would put himself or herself or his or her close relative in serious disgrace, significant material damage or prosecution.

## 3. RIGHTS WHEN THE PUBLIC PROSECUTOR DECIDES NOT TO PROSECUTE A CRIMINAL OFFENCE

The prosecution of the perpetrator of the criminal offence begins and is led by the public prosecutor. If the public prosecutor assesses that there are no conditions for prosecution, he must inform the injured party or the crime victim. The public prosecutor must inform the victim within eight days and at the same time instruct him or her that he or she can instead initiate the prosecution. The prosecutor must also inform the victim what he or she can do to exercise that right.

If the public prosecutor initiates the prosecution and then terminates it, the victim must be inform by the court.

If the victim decides to take over or continue the prosecution on his or her own, he or she must do so within thirty days of receiving the communication from the public prosecutor or the court. With this decision, the victim becomes an injured party in the role of a prosecutor and thus acquires all the rights in the proceedings that the state prosecutor otherwise has (except those that the state prosecutor has as a state body). Therefore, the prosecution is led by the victim requiring considerable commitment from him or her, both in terms of time and the expenses incurred in the proceedings.

## 4. RIGHT TO SAFEGUARDS IN THE CONTEXT OF RESTORATIVE JUSTICE SERVICES

The public prosecutor may withdraw a complaint or indictment for a criminal offence punishable by a fine or imprisonment of up to three years and certain other criminal offences (due to special circumstances) and the criminal offences referred to in the second paragraph of this Article.

The settlement shall be conducted by the conciliator, who shall endeavour to ensure that the content of the agreement to which the settlement leads is proportionate to the gravity and consequences of the actions. However, settlement may only be carried out with the consent of the injured party (victim).

Namely, if the settlement procedure is successful and the perpetrator performs the agreement (for example, performs community service), the public prosecutor will dismiss the complaint, and then the victim will not have the right to prosecute the perpetrator himself or herself.

In such proceedings, victims have the right to protection from secondary and repeat victimisation, intimidation and revenge.

The Slovenian Prevention of Domestic Violence Act even prohibits alternative dispute resolution (i.e. also settlement between the victim and the perpetrator of violence) in all proceedings conducted for all forms of violence.

## 5. RIGHT TO A LAWYER AND LEGAL AID

As a victim, you have the right to be represented in pre-trial and criminal proceedings by counsel, who may be a lawyer.

If you are a minor and you are a victim of a criminal offences against sexual integrity, the criminal offence of neglect of a minor and the cruel treatment or the criminal offence of trafficking in human beings, you must have a counsel throughout the criminal proceedings. If you do not have one, the court must appoint one for you *ex officio*.

You are entitled to legal aid under the conditions applicable under the national legal aid scheme for all court proceedings under the Legal Aid Act (ZBPP). Legal aid may be granted to a person who, given his or her financial situation and the financial situation of his or her family, would not be able to afford the costs of legal proceedings or the costs of providing legal aid without harming his or her social status and the social situation of his or her family.

However, legal aid for victims is only available during the stages of the court proceedings. In proceedings before the police, legal aid is not possible.

## 6. RIGHT TO REIMBURSEMENT OF EXPENSES

As a victim, you may incur individual expenses in criminal proceedings.

If you are heard as a witness, you are entitled to reimbursement of the expenses incurred as a result. Reimbursement may cover travel expenses, food and accommodation expenses and expenses due to absence from work or loss of profit. The authorities are obliged to warn the victim of this right, and the victim must make a request for reimbursement (orally) immediately after the hearing.

The costs of the procedure also include the costs of your counsel (if you have one), but in principle, it is considered that you cover the fee and expenses of the counsel yourself. Exceptionally, the costs are covered from the state budget – if the counsel was appointed *ex officio* by a court and the payment of these costs would jeopardise your livelihood, or if you have been granted legal aid.

## 7. RIGHT TO COMPENSATION

As a victim, you can file a motion to pursue a property claim in criminal proceedings. The motion can be submitted to the police, the public prosecutor together with the criminal complaint or in the court seized.

The authorities are obliged to warn you of this right. The motion must clearly indicate the claim and provide evidence (for example, medical certificates, documents proving the ownership of the confiscated property, etc.).

The court may decide not to deal with your property claim if it is too complicated and would delay the criminal proceedings too much. In this case, the court will instruct you to assert your claim in a lawsuit – file a civil lawsuit against the defendant.

Under certain conditions, you can also claim compensation based on the Crime Victim Compensation Act. Victims of violent intentional acts and their relatives have the right on this basis (if the deceased victim survived or was obliged to support them). A claim for damages must be made within 6 months of the commission of the act. The substantive conditions for awarding compensation are (among others) that the act was detected or reported to the competent authority and treated as a criminal offence, that the applicant suffered bodily injury, damage to health or mental pain, that the applicant was harmed by the act recognised by law.

In any case, minors, persons with disabilities and victims of domestic violence are entitled to compensation.

Otherwise, the condition for compensation is that there is a likelihood that the perpetrator will not be able to pay compensation. It is assumed that he will not be able to pay compensation when the perpetrator remains unknown within three months of the detection or announcement of the act and is not discovered until the commission (which is responsible for deciding on compensation) decides.

The victim must address the claim for compensation to the Commission for Compensation to Crime Victims at the Ministry of Justice.

### 8. RIGHT TO APPEAL THE JUDGMENT

As a victim (injured party), you can appeal a rejection judgment and a court acquittal. You can only appeal a conviction with regard to the court's decision on the property claim, the publication of the final judgment and the decision on costs. When the victim takes over the prosecution (the injured party as prosecutor), he or she can challenge the judgment on all grounds of appeal.

## III. VICTIM PROTECTION

### 1. RIGHT TO PROTECTION

As a victim, you should have measures available to protect you and your family members from secondary and repeat victimisation, intimidation, and retaliation. It also means protection from being emotionally or psychologically harmed. Care must be taken to protect your dignity during questioning and testimony. It is necessary to ensure that hearings are held without undue delay; that the number of interviews with victims be kept to a minimum; that victims may be accompanied by their legal representative and a person of their choice, and that medical examinations are as limited as possible and are carried out only if strictly necessary for criminal proceedings.

You can read more about possible measures to protect you during the hearing **in section II.2 of this document**.

## 2. THE VICTIM'S RIGHT TO AVOID CONTACT WITH THE OFFENDER

As a victim, you have the right to avoid contact with the offender on the premises where the criminal proceedings are taking place unless this is strictly necessary for the conduct of the proceedings.

Safeguards during the hearing can also serve this purpose – you can read more about possible measures for your protection during the hearing **in section II.2 of this document**.

## 3. INDIVIDUAL ASSESSMENT OF VICTIMS AND VICTIMS WITH SPECIFIC PROTECTION NEEDS

Authorities must assess each victim individually to determine their specific protection needs.

In the individual assessment, it is necessary to take into account, in particular, the personal characteristics of the victim (such as age, health condition and possible disabilities).

The type or nature of the criminal offence and the circumstances of the offence must also be considered. 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; victims whose relationship to and dependence on the offender make them particularly vulnerable (victim of domestic violence).

Children who are crime victims are always considered to have specific protection needs.

The individual assessment is first prepared by the police at the first contact with the victim and then updated if necessary. The police are responsible for individual assessment until a criminal complaint is filed with the competent state prosecutor's office. In the continuation of the procedure, the state prosecutor's office is responsible for updating the individual assessment.

To make an individual assessment, the police and the prosecutor's office may also invite the victim. However, they can also obtain and consider the opinion of the competent centre for social work.

If it follows from the individual assessment that the victim has specific protection needs, he or she may access protection measures as defined by law.

## 4. SAFEGUARD MEASURES

If, based on an individual assessment, it has been established that you are a victim with specific protection needs, safeguard measures are available to you under the conditions defined by law.

Safeguard measures are available during the hearing – you can read more about possible measures for your protection during the hearing **in section II.2 of this document**.

Other safeguard measures:

- **Detention order or house arrest** – If the accused is dangerous and is likely to obstruct the course of the criminal proceedings by influencing witnesses or if a danger exists that he or she will repeat the offence, complete the attempted offence or commit the offence with which he or she threatens, the court will order his or her detention or house arrest on the motion of the public prosecutor.

- **Notification of the release or escape of a suspect or accused person from house arrest or detention** – As a victim, to ensure your personal safety, you can request notification of the release or escape of a suspect or accused person from house arrest or detention. You must be informed of this right by the competent authority at the first contact in pre-trial or criminal proceedings. The police or the court will inform you about the escape or release.
- **Restraining (stay-away) order and safeguard measures for victims of domestic violence** – If a danger exists that the offender will endanger the life, personal safety or freedom of the person with whom he or she is or has been in a close relationship, police officers may order a ban on approaching a particular place or person. Read more about this and other measures for victims of domestic violence in the next section (IV).
- The **Witness Protection Act** affords the victims of a very serious crime, such as kidnapping, drug trafficking, etc. special safeguard measures: physical protection; relocation; modified personal documents; denying access to personal data; concealment of identity; change of identity; use of video conferencing and telephone conferencing; financial and social support.

## IV. RIGHTS OF VICTIMS OF DOMESTIC VIOLENCE

1. Rights of victims of domestic violence

In addition to the rights afforded to all crime victims, victims of domestic violence also have special rights regulated by the Domestic Violence Prevention Act (ZPND). The ZPND recognises these rights to victims of domestic violence, regardless of whether criminal proceedings are being conducted against the offenders or not. The rights afforded to victims of domestic violence are thus not tied exclusively to criminal proceedings (the victim is not entitled to certain rights regulated by the ZPND at all).

The ZPND regulates the following rights of victims:

- The right to an assistant;
- The right to protection of the victim's identity and to the protection of the victim data;
- The victim's right to information;

- The right to propose the imposition of specific measures to ensure the safety of the victim;
- (The right to legal aid – this right is tied only to proceedings for the imposition of measures under the ZPND and to proceedings concerning the regulation of family relations, while in criminal proceedings, the victim is entitled to legal aid under the general rules of the Legal Aid Act).

Victims of domestic violence also enjoy special treatment under the Crime Victim Compensation Act. Namely, these victims are entitled to compensation paid from the state budget, regardless of whether the compensation could be paid by the perpetrator and regardless of whether the victim has filed a property claim or filed a claim for damages in criminal proceedings.

**Right to assistant:**

In criminal proceedings, the victim's right to be accompanied by a person whom the victim trusts is regulated by Article 65 of the Criminal Procedure Act (ZKP), according to which a person whom the violence victim trusts may be present in pre-trial and criminal proceedings. Article 7 of the ZPND additionally regulates the victim's right to choose an assistant who can accompany him or her in all proceedings related to violence and in proceedings in which the perpetrator of violence is involved. In practice, these procedures are mainly procedures for imposing measures under the ZPND, procedures for regulating family relations (divorce, legal issues regarding upbringing and care, contacts and maintenance, liquidation of the matrimonial property), criminal proceedings and minor offence proceedings. The assistant helps the victim to protect his or her integrity in proceedings before authorities and organisations, helps to find solutions and provides psychological support to the victim. For the presence of an assistant in the proceedings, it is sufficient for the victim to state before the commencement of the proceedings or during the proceedings that a certain person is accompanying him or her and that he or she wishes that person to be present in the proceedings. Therefore, the assistant does not need any special power for the court to allow his or her presence, but the victim's statement is sufficient. An accompanying person can be any adult who is not considered a perpetrator of violence in the proceedings. This can be a friend, family member, counsellor or a member of an NGO that the victim trusts. Before choosing an assistant, it is a good idea for the victim to consider whether to propose an assistant in the proceedings as a witness, as the assistant of a person will not be able to be heard as a witness due to the presence in the proceedings.

Pursuant to Article 8 of the ZPND, victims should also have the right to an advocate who, under special regulations, would protect the victim's benefits in proceedings and activities, but this provision does not yet apply (ZPND stipulates that it will be applied by enforcement of a special law governing the right of victims to counsel, which has not yet been adopted).

**The right to protection of the identity of the victim and to the victim's data protection:**

The ZPND includes express provisions on the protection of the identity and data of the victim, and the purpose of these provisions is to protect the victim's personal data and to provide him or her with a safe environment and to protect the victim's personal rights. Pursuant to Article 9 (1) of the ZPND, information on victims of violence may not be provided to the public on the basis of which the victim or her family could be identified. The provision of data is permissible only if the adult victim expressly agrees to this and does not expose the children or their personal data. Under Article 9a of the ZPND, bodies and organisations and non-governmental organisations protect information on the accommodation of the victim and his or her children or other measures for their protection as a professional secret.

**Victim's right to information:**

Victims have the right to be informed. Pursuant to Article 9b of the ZPND, authorities and organisations and non-governmental organisations shall ensure that victims receive appropriate and timely information on available support services and legal remedies in a language they understand.

**The right to propose the imposition of specific measures to ensure the safety of the victim:**

In addition to the provisions on criminal procedure, which determine how victims can be protected in pre-trial and criminal proceedings, other laws also contain provisions on ensuring safety. The police, who are usually the first to come into contact with the victim and the perpetrator when the victim is seriously endangered, may impose a measure ordering the perpetrator to approach a certain place or person, which includes a ban on harassment by means of communication. The police order this measure pursuant to Article 60 of the Police Tasks And Powers Act (ZNPPol) if there is a reasonable suspicion that a person has committed a criminal offence or minor offence with elements of violence or has been caught in such an act, and there are reasons for suspicion of endangering the life, personal safety or liberty of a person with whom he or she is or has been in a close relationship within the meaning of the provisions of the Criminal Code and the law governing the prevention of domestic violence. The offender who received a restraining order must leave the place or area of the restraint immediately and hand over the keys of the residence in which he or she lives together with the victim to the police officer. This measure may be imposed by the police within 48 hours, and the order shall be immediately sent for consideration to the investigating judge, who may confirm, amend or revoke the measure. If the restraining order banning the approach to a certain place or person is confirmed by the investigating judge, the measure may be imposed for a period of up to 15 days, taking into account the entry into force of the measure as imposed by the police. If reasonable grounds exist to suspect that the offender will continue to threaten even after 15 days, for which a restraining order has been imposed, the victim may submit a motion to the investigating judge to extend the measure for a maximum of 60 days. The injured

party or the perpetrator may appeal against the decisions of the investigating judge to the pre-trial panel of the district court within three days.

In addition to the above-mentioned tasks of the police, under Article 18 of the ZPND, the police must, at the request of the victim, provide security to the victim and his or her assistant upon entering the residential and other premises where the victim resides or uses them that he or she can take the things necessary to provide for his or her basic living needs and the basic living needs of his or her children and the things he or she needs for his or her occupation.

The ZPND also regulates measures that may be imposed by a court to ensure the safety of the victim. Pursuant to Article 19 of the ZPND, a court may order a perpetrator of violence who has physically injured the victim or caused damage to his or her health, or otherwise unlawfully interfered with his or her dignity or other personal rights (threatened him or her, illegally entered his or her apartment or workplace, pursues or harasses him or her, publishes personal information about him or her), in particular:

– Prohibit entry into the apartment where the victim lives;

– Prohibit staying in a certain vicinity of the apartment in which the victim lives;

– Prohibit staying and approaching places where the victim is normally located (e.g. workplace, school, kindergarten etc.);

– Prohibit contact with the victim in any way, including by means of distance communication and also through third parties;

– Prohibit the initiation of any meeting with the victim;

– Prohibit the publication of the victim's personal data, documents from judicial and administrative files and personal records relating to the victim.

The court may impose this measure for a maximum of 12 months, and the court may, at the request of the victim, extend the measure several times, but each time for a maximum of 12 months.

Pursuant to Article 21 of the ZPND, the court may order the perpetrator of violence who lives in a common household with the victim to transfer the accommodation to the victim for exclusive use in the extent enjoyed by the perpetrator. A perpetrator of violence who must transfer accommodation to the victim for exclusive use shall refrain from all actions that could impede or present obstacles to any such use, while the victim must cover the costs of regular management of the accommodation during the period of exclusive use. The duration of this measure depends on whether the perpetrator and the victim are joint owners or co-owners of the apartment or whether they are both tenants or not. If the perpetrator of the violence is not the owner, co-owner or joint owner of the shared apartment, the court shall not limit the duration of the measure. If the victim and the perpetrator of violence are co-owners or joint owners of a shared apartment or if they have rented it together, the court shall limit the duration of the measure to a maximum of 12 months. Upon the victim's proposal, the court may extend the measure for a maximum period of 12 months. The court shall limit the measure to a maximum of six months if the perpetrator of violence owns,

co-owns or jointly owns the accommodation that is in common use together with a third party. If the victim is unable to find any other suitable accommodation in the deadline set by the court, despite diligent efforts made, then the court may – on the victim's proposal – exceptionally extend the deadline given in the preceding sentence for a maximum of six months, unless this should cause a disproportionate burden for the third party.

Procedures for imposing measures to ensure the safety of the victim are initiated at the request of the victim. The centre for social work may propose to initiate proceedings with the consent of the victim. A motion to impose measures must be made no later than six months after the victim last suffered violence.

**Right to legal aid:**

Irrespective of the provisions of the law governing legal aid, a person for whom a risk assessment has been given by a centre for social work has been entitled to legal aid under the ZPND. This means that a person who would not otherwise be entitled to legal aid according to property and income criteria (because he or she has too much property or too much income) is also entitled to legal aid. However, the right to legal aid is not granted for criminal proceedings, but only for proceedings for the imposition of measures under the ZPND and for proceedings concerning the regulation of family relations if, in the opinion of the centre for social work, this is absolutely necessary.

The victim is entitled to legal aid in criminal proceedings according to the rules under the Legal Aid Act, which determines the income and property criteria. To put it simply: low-income victims who do not have assets of greater value are entitled to legal aid.

### *3.3. Criminal Procedure – a General Overview*

Information on reporting a criminal offence and on criminal proceedings

- **Where and how do I report a criminal offence?**

You can report the criminal offence to the police or the state prosecutor's office.

To do this, go to the nearest police station or state prosecutor's office.

You can also report a criminal offence by calling intervention number **113**.

If you want to report anonymously, you can do so by dialling the police number **080-1200**.

You can send a written report to the police by post or submit it online: e-report of a criminal offence. In addition, you can do it online through an anonymous e-report.

- **What happens if I withdraw my report?**

In some instances, the withdrawal of the report fails to affect the course of the proceedings. Where the Criminal Code stipulates that the perpetrator of a particular criminal offence shall be prosecuted *ex officio*, the police must investigate the circumstances of the offence, and the public prosecutor must prosecute the perpetrator regardless of whether the victim has filed a report or may have withdrawn it.

However, when the Criminal Code stipulates that the prosecution of the perpetrator of an individual criminal offence shall commence at the motion of the injured party, the withdrawal of the report terminates the investigation of the criminal offence and the prosecution of the perpetrator.

If you withdraw your report after the main hearing at the court has already started, you will most likely have to pay the costs of the proceedings. The only way the court will not charge you for the costs is if the accused (the perpetrator of the violence) says that he or she will pay the costs.

- **What follows a report of a criminal offence? (short description of the procedure)**

**THE POLICE**

After the report, police will begin investigating the suspicion that a criminal offence has been committed. To this end, they will gather a variety of information: they will collect statements from victims and other witnesses about when, where, how the act was committed and who committed it, and they will discover and collect further evidence. This stage of the process is called **pre-trial proceedings**.

On all the findings of the proceedings, the police will inform ⟶ **OKROŽNO DRŽAVNO TOŽILSTVO**.

**THE DISTRICT STATE PROSECUTOR'S OFFICE**

The District State Prosecutor's Office directs the work of the police in pre-trial proceedings. Based on the findings of the police, the district state prosecutor may make several decisions in the case:

1. Submits a request for an investigation (⟶ **PREISKOVALNI SODNIK**)

2. Files an indictment without prior investigation (⟶ **)**.

**SODIŠČE**)

3. Decides not to file an indictment or withdraws from prosecution ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON)**

4. Withdraws the complaint in ⟶ **POSTOPEK PORAVNAVANJA**

5. Defers the prosecution ( ⟶ **ODLOG PREGONA**)

**THE INVESTIGATING JUDGE**

At the request of the state prosecutor, the investigating judge leads the **investigation**. In an investigation based on material previously collected by the police and the state prosecutor's office, the investigating judge further investigates the criminal offence and gathers evidence. He also interrogates the accused, witnesses and others involved in the investigation.

At the hearing, the investigating judge may hear the crime victim as a witness. The victim is obliged to respond to the court's summons and answer questions.

After the investigation is completed, the public prosecutor assesses whether the evidence gathered is sufficient to continue the proceedings. In this case, he or she files an indictment ( ⟶ **SODIŠČE**).

However, he or she may decide not to indict ( ⟶ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

**THE COURT**

If the indictment becomes final (no objection has been filed against it or the objection was rejected), the judge schedules a **pre-trial hearing**, where the accused enters his or her plea (pleads guilty or not guilty).

If he or she pleads guilty, the court will only hold a hearing at which it will impose a criminal sanction, but no main hearing or full trial will take place.

If he or she pleads not guilty, the court will hold the main hearing, which can take place at several hearings.

At the main hearing, the public prosecutor presents the indictment, the defendant gives his defence, and the court presents evidence: hearing witnesses (including victims), experts, reviewing the evidence (e.g. photographs, documents, etc.).

**THE JUDGMENT**

On this basis, the court decides whether the accused has committed a criminal offence, whether he is criminally liable for it and on the criminal sanction.

The verdict is announced by the judge at the hearing. Within 30 days, the court prepares a judgment in writing. If the defendant is detained, the court must do so within 15 days.

The judgment can be appealed. **The victim may also appeal against the rejection judgment and the acquittal by the court.** You can only appeal a conviction with regard to the court's decision on the property claim, the publication of the final judgment and the decision on costs. When the victim takes over the prosecution (the injured party as a prosecutor), he or she can challenge the judgment on all grounds of appeal.

## THE POSSIBILITY OF THE VICTIM TO TAKE OVER THE PROSECUTION

Whenever the public prosecutor decides not to prosecute an offence (if he or she considers that no legal basis exists for prosecuting the perpetrator of a criminal offence prosecuted *ex officio*), he or she must inform the injured party (victim) of such a decision. The prosecutor must do so within eight days and simultaneously inform the victim what he or she can do to exercise this right.

If the victim decides to take over or continue the prosecution on his or her own, he or she must do so within thirty days of receiving the communication from the state prosecutor or the court. With this decision, the victim becomes an injured party in the role of a prosecutor and thus acquires all the rights in the proceedings that the state prosecutor otherwise has (except those that the state prosecutor has as a state body). Therefore, the prosecution is led by the victim requiring commitment from him or her, both in terms of time and the cost of the proceedings. If the victim opts for this option, it is advisable to seek professional assistance (from a lawyer).

If the public prosecutor initiates the prosecution and then terminates it, the victim must be inform by the court.

If the public prosecutor files an indictment and the court decides to terminate the proceedings and thus not allow a trial, the court will notify the injured party. The injured party (victim) has the right to appeal the court's decision. If the appeal is successful, two options exist:

- If only the victim appeals, he or she will take over the prosecution;
- If the public prosecutor has also appealed the court's decision, the proceedings will continue as if there had been no stay of the proceedings.

## SETTLEMENT PROCEDURE

The prosecutor may, in some instances, decide to refer the matter to a settlement procedure. He or she may take such a decision only in the case of criminal offences punishable by a fine or imprisonment for up to three years.

In certain cases, due to special circumstances (e.g., if both the perpetrator and the victim propose settlement), charges for offences of serious and especially serious bodily injury, grand theft,

misappropriation and damaging another person's object may be transferred to the settlement (where the prescribed penalty is higher than mentioned before).

In making his or her decision, he or she must take into account the type and nature of the act, the circumstances in which it was committed, the personality of the perpetrator, his or her pre-conviction, etc.

The settlement process is conducted by an independent conciliator, **but only with the consent of the injured party (victim)** and the perpetrator.

If the victim and the perpetrator agree to the settlement, a procedure is carried out in which an agreement is reached, which must be in proportion to the gravity and consequences of the offence.

The suspect must perform the agreement within a specified period, which may not exceed three months.

Upon receipt of notification of compliance with the agreement, the public prosecutor shall **dismiss the complaint**.

If the prosecutor rejects the complaint based on the agreement reached, the victim has no right to prosecute ( ⟹ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

> It is important to stress that the Victims' Rights Directive requires the state to protect victims in such proceedings against secondary and repeat victimisation, intimidation and revenge.
> The Prevention of Domestic Violence Act even prohibits alternative dispute resolution (i.e. also settlement between the victim and the perpetrator of violence) in all proceedings conducted for all forms of violence.

**DEFERRED PROSECUTION**

The state prosecutor may, under certain conditions, defer the prosecution. He or she can only do so **with the consent of the injured party (victim)**. Simultaneously, deferred prosecution is possible only in the case of criminal offences punishable by a fine or imprisonment of up to three years and certain other offences, if justified by exceptional circumstances.

The prosecution is deferred by the state prosecutor if the suspect is willing to follow the instructions of the prosecutor and fulfil certain tasks. These tasks can be: 1) elimination of damage or claim settlement; 2) payment of a specific contribution for the benefit of a public institution or charitable purposes or to a fund for compensation of victims of criminal offences; 3) performing any generally useful work; 4) settlement of maintenance obligations; 5) treatment in an appropriate health institution; 6) attending an appropriate psychological or other counselling centres; 7) compliance with the restraining order.

If the suspect completes the task within the time limit set by the state prosecutor, the complaint shall be dismissed.

If the prosecutor rejects the complaint based on the completed task, the victim has no right to prosecute ( ⟹ **MOŽNOST OŠKODOVANCA, DA PREVZAME PREGON**).

- **What is the role of the victim (injured party) in criminal proceedings?**

In the proceedings, the victim can have a role of **the injured party** and a role of **a witness**.

The victim as an injured party is one of the subjects of criminal proceedings (just as the subjects of criminal proceedings are, for example, the defendant and the state prosecutor). As such, the injured party has certain procedural rights.

## WITNESS AS AN INJURED PARTY

The injured party may participate in individual investigation acts, e.g. inspection (crime scene), interrogation of experts and witnesses. However, the injured party cannot be present at all acts during the investigation phase. Namely, he or she cannot be present during the interrogation of the accused and house searches. The injured party shall be informed of the investigative acts by the investigating judge in which he or she may be present.

During the trial, the injured party may be present at all hearings of the main hearing, i.e. whenever his or her case is heard in court. The court shall inform the victim about the time and place of the hearing. This also applies to those hearings at which the public is otherwise excluded. The injured party's presence at the hearings is not obligatory, except when the injured party is called as a witness. Attendance at hearings can still be important for the victim. If at the main hearing the state prosecutor decides to withdraw the indictment, the injured party has the right to take over the prosecution and continue it on behalf of the state prosecutor, but he or she must state so immediately. If the injured party is not present at the main hearing at that time, he or she loses the right to take over the prosecution of the offence.

The injured party has the right to inspect court files and collected evidence both during the investigation and during the trial. The judge may waive this right to the injured party until the injured party is heard as a witness.

The injured party may comment during the proceedings and propose new evidence. He or she has the right to demand that new evidence be gathered or that new witnesses be heard and that new experts be appointed.

He or she also has the right to ask questions (with each judge's permission) to the accused, witnesses and experts, and to comment on their statements.

The injured party has the right to give his or her closing statement – after the closing statement was given by the prosecutor and before it is given by the defendant or his or her counsel.

**VICTIM AS A WITNESS**

When a victim is called as a witness, he or she is obliged to respond to the court summons, come to court and answer questions.

Before the hearing, the judge explains to the witness the rights afforded to him or her.

The victim as a witness can **refuse to be questioned or is exempt from the hearing** if he or she has a duty of official or military secrecy; if he or she is related to the accused (his or her spouse, cohabitating partner, mother or father, grandmother or grandfather, child, adoptive parent, adopted child, granddaughter or grandson or any other close relative); or may not provide information which he or she has learned in the course of her profession;

The victim as a witness can **refuse to answer individual questions** if it is probable that the answer would put oneself or one's close relative in serious disgrace, significant material damage or in criminal prosecution.

The victim, as a witness, is entitled to reimbursement of the expenses associated with testifying, including travel, food and accommodation costs and costs due to absence from work or loss of profit. The victim is also reminded of this right by the judge, and the victim must demand compensation immediately after the hearing.

## *4. Training Material*

### *4.1. Training Material for Civil Society Organizations Representing Persons with Disabilities*

#### *4.1.1. Introduction in Relation to Associations of Persons with Disabilities*

1. Persons with disabilities rarely choose to report crimes and offences committed against them. It is reasonable to expect that reporting rates would be higher if victims of crime and misdemeanours who are persons with disabilities were aware that there is a support system and that victims of crime have rights in proceedings aimed at improving the victim's experience while participating in criminal proceedings. To achieve this, some basic and easily understandable information should be provided to associations of people with disabilities on criminal procedures, the position and rights of victims and available victim support services. On the basis of this information, associations of persons with disabilities could run a comprehensive campaign to inform their members about their rights when they become victims of crime and misdemeanours.

2. There are difficulties in establishing adequate communication between victims - persons with disabilities - and officials of the competent authorities. Associations of persons with disabilities could help to overcome these barriers. Their knowledge of the characteristics of different types of disabilities could be useful in informing victims, ensuring that the information provided is

understood, providing mobility and other necessary adaptations for persons with disabilities, and referring them to the appropriate support and assistance mechanisms.

3. Associations of persons with disabilities could also play an important role in educating police officers and other criminal justice officials on how to approach persons with disabilities and the extent to which it is necessary and desirable to adapt their procedural actions to the needs of persons with disabilities.

4. As there is insufficient awareness of the specific needs of victims with disabilities in the existing support system, awareness-raising work is needed. Associations of persons with disabilities could play an important role in this respect through the systemic involvement of civil society organisations in the support system for victims of crime.

5. Associations of persons with disabilities could be more actively involved in individual assessment procedures and ensure that victims are adequately protected. Their representatives could take on a more active role as persons of trust, accompanying victims in criminal proceedings.

### *4.1.2. Power Point*

Slide 1

irective 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA has created a legal basis for the realization of the right of victims of criminal offenses to information, and thus the necessary prerequisites for an informed victim participation in criminal proceedings. State authorities (as primary actors), as well as other institutions and organizations that come into contact with victims of crime and offenses, must use the appropriate approach towards the victim, (b) to provide the victim with good quality, understandable information on his/her rights and (c) provide information on the possibilities to obtain assisstance and support, both in relation to their participation in a criminal proceeding and in relation to remedying the consequences of the criminal offense.

Background evidence of the relevance of this topic has been gathered both from the research into experiences of victims themselves and from accounts of relevant professionals on problems they have been facing in their everyday work.

Slide 2

## RESEARCH

- QUESTIONNAIRE FOR ASSOCIATIONS OF PERSONS WITH DISABILITIES ON THEIR CAPACITY TO TAKE ON A GREATER ROLE IN SUPPORTING VICTIMS AMONG THEIR USERS AND TO COOPERATE WITH CRIMINAL JUSTICE AND OTHER STATE AUTHORITIES

Slide 3

## RESULTS

- Some associations already have experience in supporting victims of crime.
- They provide information on rights and support, help victims with communication, refer them to institutions offering specialised support and accompany victims when they go to the criminal justice authorities.
- They have also expressed an interest in extending the support they provide.

Slide 4

RESULTS

Some associations do not have such experience, but have expressed interest in providing services to victims:

- Assistance in ensuring their mobility
- Information about their rights and the support available to them
- Referral to institutions offering specialised help
- Advocacy in contacts with criminal justice authorities
- Accompanying them to the police, the public prosecutor's office and the court as persons of trust

Slide 5

RESULTS

In order to provide support to victims, the associations said they needed:

- Improved knowledge of the criminal justice system
- Additional staff
- Additional funding
- Additional (accessible) premises

Slide 6

PRESENTATION STRUCTURE

1. WHO IS THE VICTIM OF A CRIME?
- DIRECT AND INDIRECT VICTIM
- PARTICULARLY VULNERABLE CATEGORIES OF VICTIMS

2. INFORMING VICTIMS ABOUT THEIR RIGHTS
- WHO AND WHEN?
- HOW?

Slide 7

DEFINITION OF A VICTIM

INJURED PARTY [...] is someone who has any of his or her personal or property rights violated or threatened by a criminal offence. Where the death of a person is the direct consequence of the offence, the injured party under this Act shall also be deemed to be his spouse or the person with whom he was living in a common-law relationship, his blood relatives in the same line, his adopted child or adoptive parent, his brothers and sisters and the persons whom he was supporting or was obliged to support / Article 144(5) of the CPA

When talking about victims' rights, it is important to remind ourselves of definitions of basic terms:

How does the law define a victim?
What are characteristics of different categories of victims and differences among them?

In terms of VICTIMOLOGY, „a victim of crime in a narrow (proper) sense is any natural person whose asset or right has been directly threatened, violated or abrogated by a criminal offence."

Slovenian Criminal Procedure Act does not use the term „victim" but the term „injured party", its definition corresponds to the above victimology definition of a victim.

The text of the Criminal Procedure Act (Official Gazette of the Republic of Slovenia, No. 32/12 - Official Consolidated Text, 47/13, 87/14, 8/16 - Decree of the US, 64/16 - Decree of the US, 65/16 - Decree of the US, 66/17 - ORZKP153,154, 22/19, 55/20 - Decree of the US, 89/20 - Decree of

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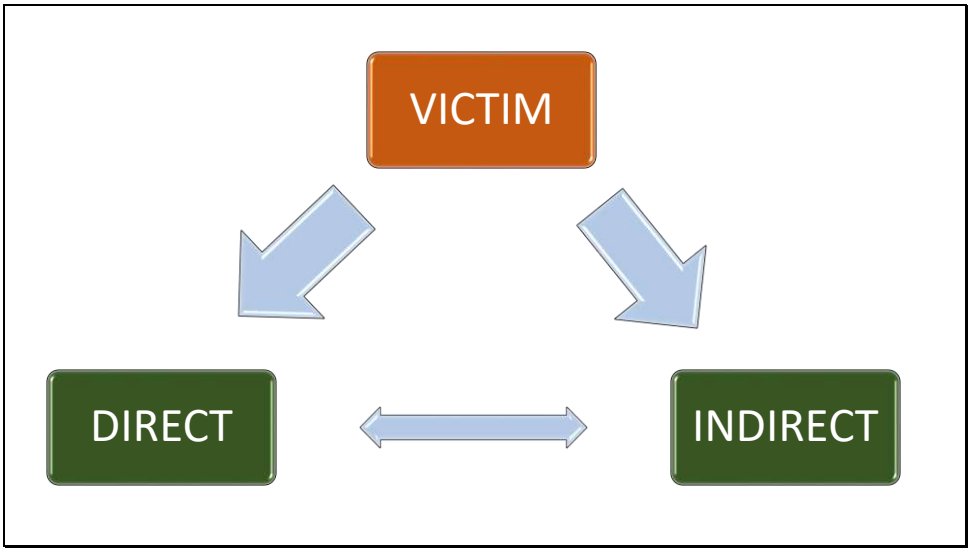


Given that the Victims' Directive sets higher standards, when it comes to the definition of a victim, the implementation of these standards is not harmonized in all MSs. Thus, for example, several MSs defines the term „victim" narrowly in the national legislation, excluding as a consequence „indirect" victims such as family members. Slovenian ZKP does not include indirect victims. But the Crime Victim Compensation Act grants rights also to those family members of a (deceased) victim, whom the victim supported.

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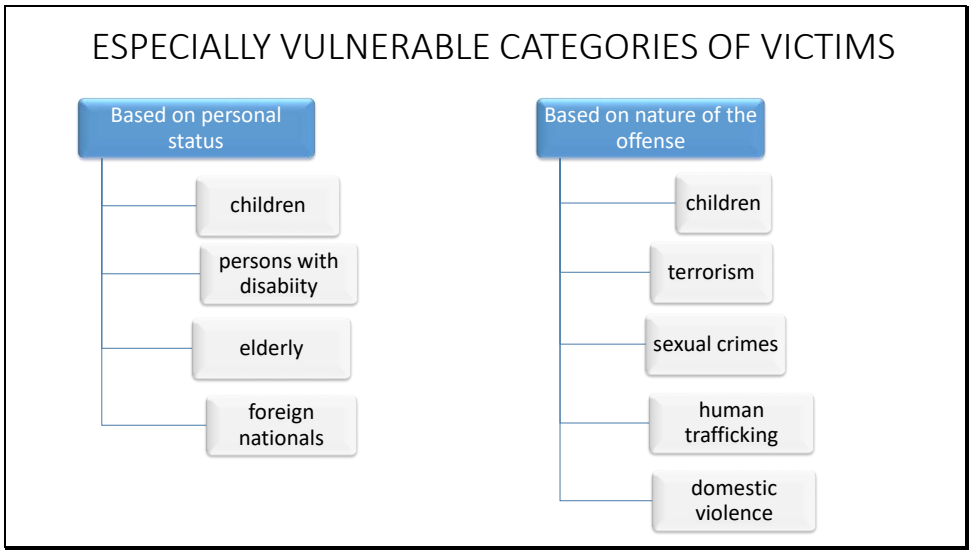


The Directive pays particular attention to certain categories of victims, in particular with regards to their vulnerability and specific protection needs. The specific situation of the victims should be

assessed on the basis of their personal status: children, persons with disabilities, as well as victims who are residents of a Member State other than that where the criminal offence was committed; and also on the basis of the nature of the crime: victims of terrorism, organized crime, trafficking in human beings, gender-based violence, violence in relation to neighbors, sexual violence, exploitation or hate crimes.

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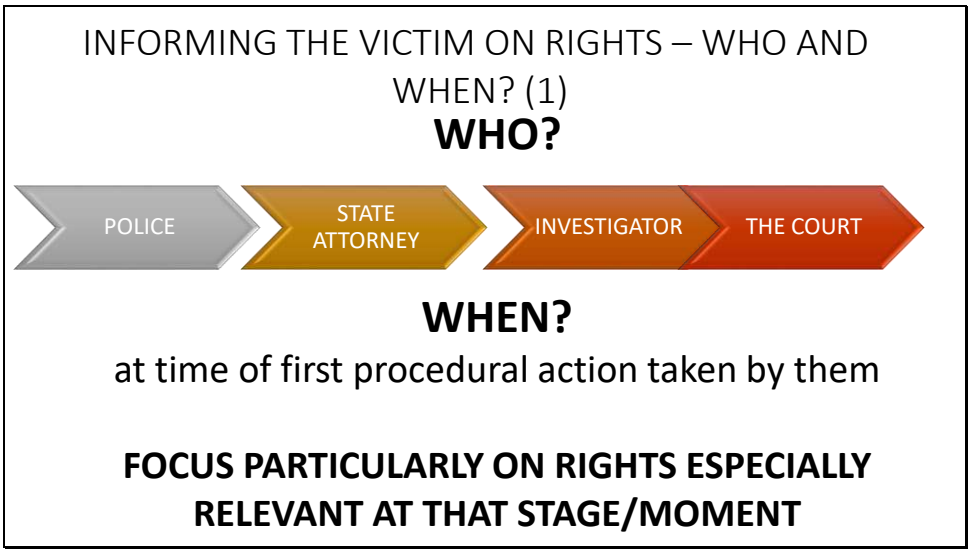


Under the Criminal Procedure Act, victims must be provided with the necessary information at the time of their first contact with the competent authority to enable them to access the rights recognised by law. The duty to provide information concerns the police, prosecutors and courts. The extent and type of information depends on the personal characteristics and vulnerability of the victim, his/her specific protection needs, the nature, gravity and circumstances of the offence and the stage of the pre-trial or criminal proceedings.

The results of empirical research show that it is important for victims to receive information more than once - from all involved actors, and that they focus on rights that are particularly important at that moment. For example, at the first contact with the police, a sense of security and personal safety is the most important for the victims. Therefore, should focus especially on informing victims of their right to protection from intimidation and retribution, and of all the measures that can be taken by police officers in order for the victim to enjoy that right.

Slide 11

## INFORMING THE VICTIM ON RIGHTS – WHO AND WHEN? (2)

EMPIRICAL RESERACH RESULTS (VICATIS)

- Who would have thought that certain things Idid not see as a priority at that point would become a priority later on?".
- "Generally speaking, I believe that the most important thing is for women to get information on where they can hide,find shelter and how. What is available out there, and that's something that many women do not know."
- "/...What is important is/ for them to tell you that you have the right to protection, that you have the right to call them, that you have the right to report even the slightest violation of the restraining order..., meaning any harassment , that you have the right...That you are safe, after all. Yes. That you are safe."

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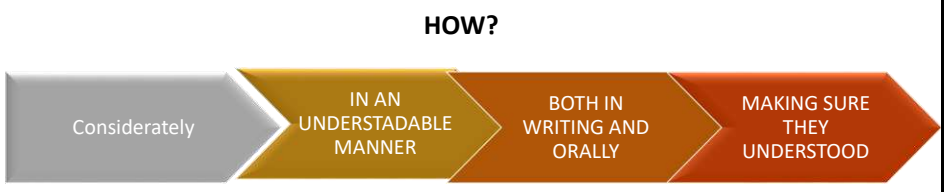
## INFORMING THE VICTIM OF RIGHTS — HOW? (1)




Criminal Procedure Act:

The police, the state prosecutor's office, the court and other state bodies, experts, experts, court and other interpreters and settlement officers must treat victims, suspects, accused persons and convicted persons with particular care and consideration during pre-trial and criminal proceedings, where this is necessary because of their vulnerability, such as age, health, disability or other similar circumstances. /Article 18a of the CPA

The scope and type of information referred to in the preceding paragraph shall depend on the personal characteristics and vulnerability of the victim, his/her specific protection needs, the nature, gravity and circumstances of the offence and the stage of the pre-trial or criminal proceedings. /Article 65a(2) CCP

Victims' Rights Directive:

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. /Article 3(2) of the Directive

Slide 13

## INFORMING THE VICTIM ON RIGHTS — HOW? (2)

- CONSIDERATELY

Taking into account the current status of the victim (health status, degree of traumatization, age or any other status preventing him/her from fully following, comprehending and/or confirming his/her understanding of the information being provided

- EMPIRICAL RESEARCH RESULTS

One respondent said she could not recall any information possibly given to her by the police due to her state at the time, as the police had talked with her in the hospital, where she had been receiving treatment for injuries inflicted by her husband.

Slide 14

## INFORMING THE VICTIM OF RIGHTS — HOW? (3)

- IN AN UNDERSTANDABLE MANNER:

- Avoiding strict and formal legal terminology; explaining the rights in accessible language adjusted to each individual victim; using interpretors (when communicating with foreigners, persons with hearing impairments, etc.)

- EMPIRICAL RESEARCH RESULTS
  - "Trey were doing their best to explain it, although some items were not clear to them either..."
  - „They were polite, I mean. They intended to elaborate on everything orally, but at the end they left me with that piece of paper."
  - One respondent said that she did not receive any information from the state attorney, nor did she receive any information from the judge, and therefore her impression was that they simply wanted to get it over with to get their job done.

In the „flood" of information on rights, the victim might feel lost in his/her contact with representatives of official bodies. Experience indicates that the same applies to individuals working in public/state institutions and bodies: they feel that they have too many mandatory procedural steps to take in relation to each case, and often aproach the process of informing the victim in a cursory manner.

As indicated by the empirical research, some of them simply hand a written list of rights to the victim (directing him/her to read it and sign in order to confirm he/she understood it). Alternatively, some simply read the rights out loud without any explanation or with an inadequate, insufficient explanation.

To prevent feelings of loneliness, insecurity and fear in victims flooded by the information given to them, police officers, state attorneys, and judges have a duty to make additional efforts and assure that the victim has been introduced to his/her rights fully and in a timely manner, that he/she gets the information with all the rights guaranteed by the law, that he/she understand the rights and is in a position to determine whether he/she wishes to exercise them or not.

Slide 15

## INFORMING THE VICTIM OF RIGHTS — HOW? (4)

IN AN UNDERSTANDABLE MANNER:

Example 1 - Right to safeguards to ensure personal security

"We have a duty to ensure your safety if you think you may be intimidated by the offender or if you think the offender may seek revenge. This can be done by preventing as far as possible from meeting him at the police station, prosecutor's office or court, forbidding the offender to approach you (such a measure is ordered by the court), and if he does approach you, call the police immediately to take action. Did you understand what I explained? Do you want me to do something right away?"

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## INFORMING THE VICTIM OF RIGHTS — HOW? (5)

IN AN UNDERSTANDABLE MANNER:

Example 2 - Right to be accompanied by a person of trust

"You have the right to be accompanied by someone you trust and who will be able to support you when you go to the police, public prosecutor's office and court, so that you do not feel alone. This person cannot take part in the proceedings, but can offer you support. Do you understand me? If you want someone to be there for you, who could it be, how can we contact them? Do you want me to contact him/her?"

Slide 17

## INFORMING THE VICTIM OF RIGHTS — HOW? (6)

BOTH ORALLY AND IN WRITING:

- Mandatory oral provision of information (in a conversation), but also provision of a written/printed material (Significant number of victims are in a state of shock and trauma due to the criminal offense – they should be advised to read the information on their rights in peace later on, and to feel free to contact the person who originally advised them of their rights if and when they need any additional explanation or clarification.).

MAKE SURE THAT HE/SHE UNDERSTANDS HIS/HER RIGHTS

- It is not enough that the victim simply confirms with a „Yes." that he/she understood. It is important to verify in an appropriate way, adjusted to each individual victim that he/she comprehends the meaning of each right.

Slide 18

## OUTCOMES OF THIS APPROACH TO INFORMING THE VICTIM OF RIGHTS

- Contribution to the establishment of his/her sense of security, protection and trust (not only in the specific person but also in the system)
- Cooperation of the victims is the key for the successful outcome of criminal proceedings

Slide 19

INFORMING THE VICTIM ON RIGHTS – PSYCHOLOGICAL ASPECTS

?

What are the intended outcomes

How to achieve them

What can we do so that the victim's rights are really realized

Two things are important in this process: apart from the content-related aspects of informing the victim about his/her rights, the psychological aspect is very important. This means that every person - member of the state body responsible for informing the victim of his/her rights must be sufficiently educated both on the level of knowledge and on the level of the skills. To this end, it is important to raise awareness of the purpose of the information process, that is, what it wants to achieve (whether it is simply to formally go through all the legally prescribed steps or it is important for the victim to gain confidence and security).

Namely, the police, the state attorney's office and the court have the ultimate goal of successful prosecution, i.e. protection of the victim through high-quality prosecution and conviction of perpetrators. If there is awareness that a collaborative victim, as a subject in the proceedings, is one of the factors in the success of the proceedings, than the ways to clearly inform the victim of his/her rights and of the way to realize those rights will be found. How to achieve this?
Primarily, by using an appropriate approach to the victim, each one individually (this will be discussed in the following section/topic). Then, one should be well acquainted with the legal definition of the rights of victims so that information about the possibility of realizing these rights is of high quality, exhaustive and useful. Particularly important is the ability to put oneself in the position of a victim, for whom at this point it is important that someone is listening to him/her carefully, that the persons has patience and takes enough time to communicate with him/her. Although the officer may not know fully how/where the victim can exercise his or her right, sometimes it is enough for the victim if the officer/professional refers him/her to the persons, institutions or civil society organizations who can provide more accurate information, assistance or support.

Slide 20

QUESTIONS
COMMENTS
SUGGESTIONS

### *4.2. Training Material for Police Officers and for Criminal or Misdemeanour Justice Professionals*

#### *4.2.1. Introduction in Relation to State Institutions*

When persons with disabilities who are victims of crime or misdemeanours decide to report a crime or misdemeanour to the competent institutions or to another person or organisation, they face a number of problems. They find it much more burdensome to participate in criminal or misdemeanour proceedings than victims who are not persons with disabilities. Efforts should be made to address those factors that make the experience more difficult than it is for other victims:

1. Mechanisms must be put in place to identify victims of crime who are persons with disabilities.

2. Barriers that prevent or hinder the physical access of persons with disabilities to the police and other criminal justice authorities should be removed.

3. Barriers which impede the possibility of appropriate communication between persons with disabilities and police officers and other criminal justice officials should be removed. Associations of persons with disabilities could help to remove these barriers. Their expertise, depending on the specificities of each category of disability, could be useful in informing victims, ensuring that the information provided is understood, providing mobility and other necessary adaptations for persons with disabilities, and referring them to the appropriate support system and services These associations could also play an important role by providing a persons of trust to accompany persons with disabilities, as well as by contributing with recommendations to the process of individual needs assessment of victims who are persons with disabilities.

4. Awareness among police and other criminal justice officials is not sufficient on how to approach persons with disabilities and to what extent it is necessary and desirable to adapt their procedural actions to the abilities and needs of persons with disabilities. It is therefore necessary for the staff of the competent authorities to receive systematic training on the needs of persons with disabilities and the necessary adaptations. Associations of persons with disabilities could play an important role in training and should be actively involved in informing and training of the criminal justice system stakeholders on how to communicate with persons with disabilities and on the necessary adaptations for persons with different types of disabilities.

### *4.2.2. Power point presentations*

Slide 1

Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA has created a legal basis for the realization of the right of victims of criminal offenses to information, and thus the necessary prerequisites for an informed victim participation in criminal proceedings. State authorities (as primary actors), as well as other institutions and organizations that come into contact with victims of crime and offenses, must use the appropriate approach towards the victim, (b) to provide the victim with good quality, understandable information on his/her rights and (c) provide information on the possibilities to obtain assisstance and support, both in relation to their participation in a criminal proceeding and in relation to remedying the consequences of the criminal offense.

Background evidence of the relevance of this topic has been gathered both from the research into experiences of victims themselves and from accounts of relevant professionals on problems they have been facing in their everyday work.

Slide 2

Although we have prepared a presentation, we would like to hear about your expectations from this lecture. What would you like to hear about in respect of this topic? What issues would you like to discuss?

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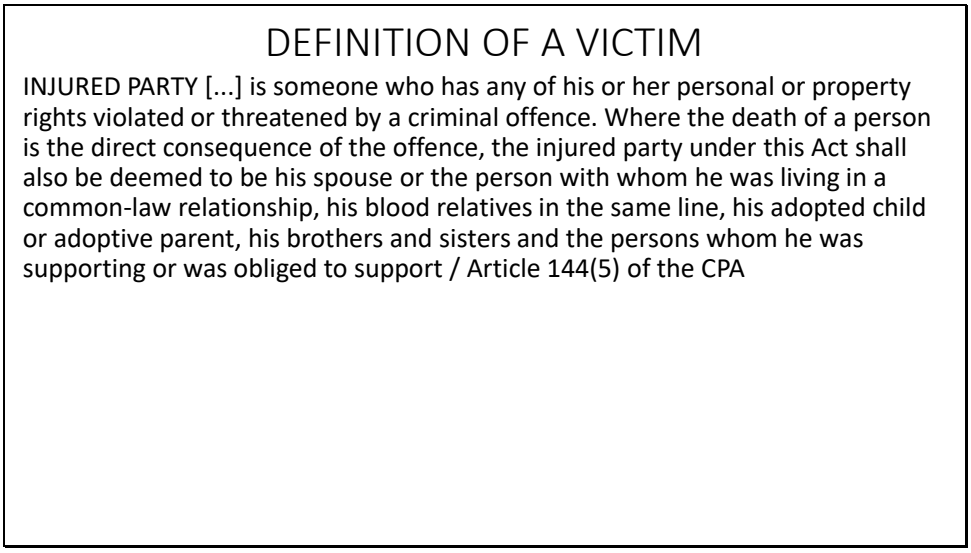


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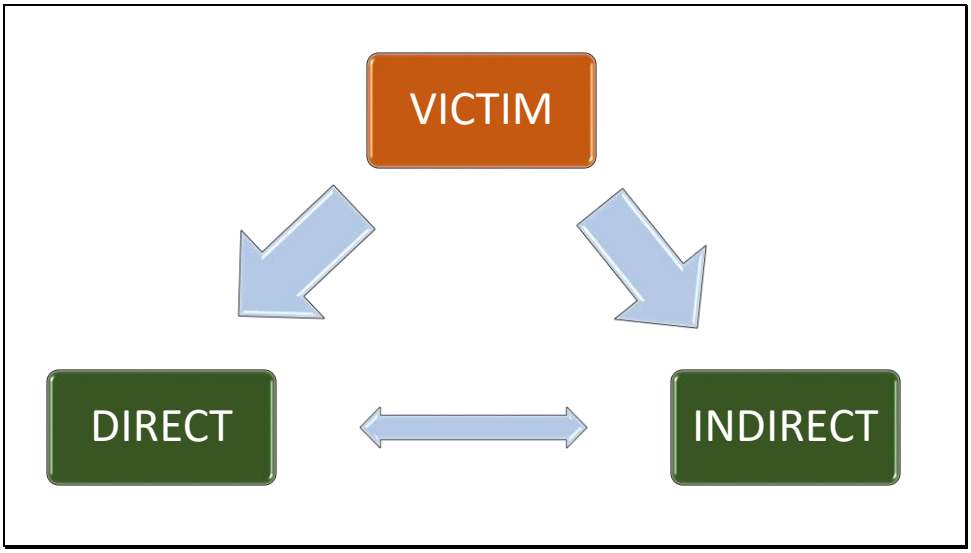


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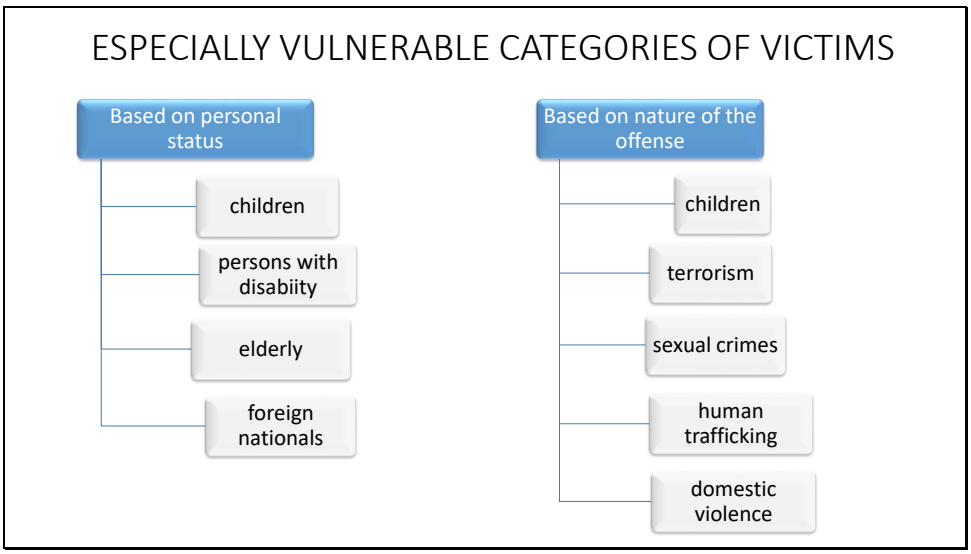

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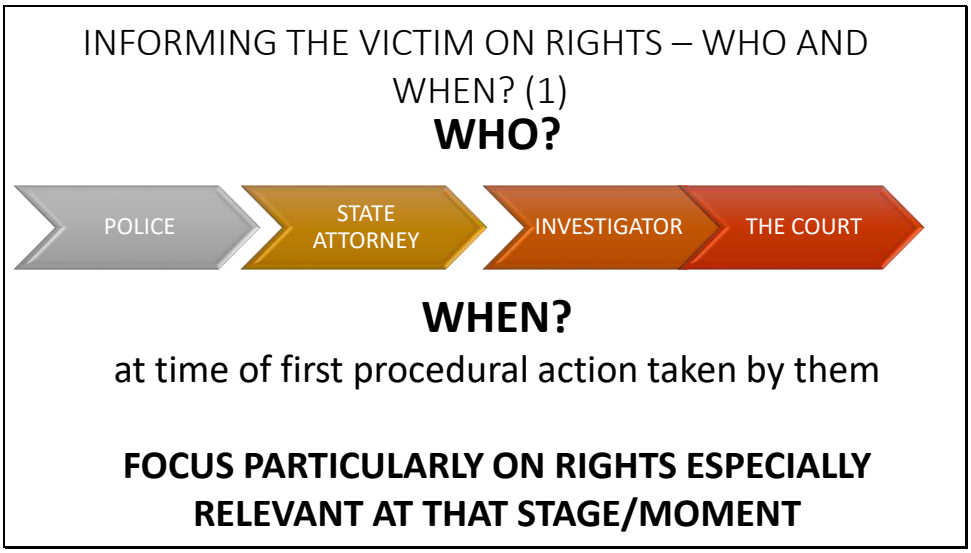


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## INFORMING THE VICTIM ON RIGHTS – WHO AND WHEN? (2)

EMPIRICAL RESERACH RESULTS (VICATIS)

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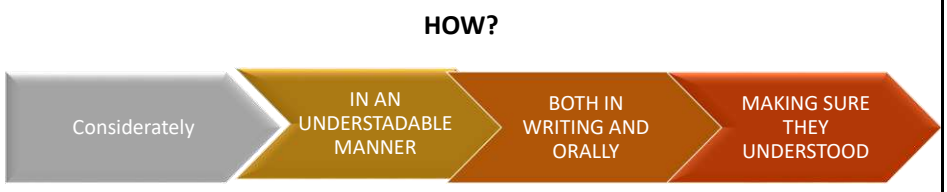
## INFORMING THE VICTIM OF RIGHTS — HOW? (1)

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## INFORMING THE VICTIM ON RIGHTS — HOW? (2)

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## INFORMING THE VICTIM OF RIGHTS — HOW? (3)

- IN AN UNDERSTANDABLE MANNER:

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- EMPIRICAL RESEARCH RESULTS
  - "Trey were doing their best to explain it, although some items were not clear to them either..."
  - „They were polite, I mean. They intended to elaborate on everything orally, but at the end they left me with that piece of paper."
  - One respondent said that she did not receive any information from the state attorney, nor did she receive any information from the judge, and therefore her impression was that they simply wanted to get it over with to get their job done.

In the „flood" of information on rights, the victim might feel lost in his/her contact with representatives of official bodies. Experience indicates that the same applies to individuals working in public/state institutions and bodies: they feel that they have too many mandatory procedural steps to take in relation to each case, and often aproach the process of informing the victim in a cursory manner.

As indicated by the empirical research, some of them simply hand a written list of rights to the victim (directing him/her to read it and sign in order to confirm he/she understood it). Alternatively, some simply read the rights out loud without any explanation or with an inadequate, insufficient explanation.

To prevent feelings of loneliness, insecurity and fear in victims flooded by the information given to them, police officers, state attorneys, and judges have a duty to make additional efforts and assure that the victim has been introduced to his/her rights fully and in a timely manner, that he/she gets the information with all the rights guaranteed by the law, that he/she understand the rights and is in a position to determine whether he/she wishes to exercise them or not.

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INFORMING THE VICTIM OF RIGHTS — HOW? (4)

IN AN UNDERSTANDABLE MANNER:

Example 1 - Right to safeguards to ensure personal security

"We have a duty to ensure your safety if you think you may be intimidated by the offender or if you think the offender may seek revenge. This can be done by preventing as far as possible from meeting him at the police station, prosecutor's office or court, forbidding the offender to approach you (such a measure is ordered by the court), and if he does approach you, call the police immediately to take action. Did you understand what I explained? Do you want me to do something right away?"

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INFORMING THE VICTIM OF RIGHTS — HOW? (5)

IN AN UNDERSTANDABLE MANNER:

Example 2 - Right to be accompanied by a person of trust

"You have the right to be accompanied by someone you trust and who will be able to support you when you go to the police, public prosecutor's office and court, so that you do not feel alone. This person cannot take part in the proceedings, but can offer you support. Do you understand me? If you want someone to be there for you, who could it be, how can we contact them? Do you want me to contact him/her?"

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## INFORMING THE VICTIM OF RIGHTS — HOW? (6)

BOTH ORALLY AND IN WRITING:

- Mandatory oral provision of information (in a conversation), but also provision of a written/printed material (Significant number of victims are in a state of shock and trauma due to the criminal offense – they should be advised to read the information on their rights in peace later on, and to feel free to contact the person who originally advised them of their rights if and when they need any additional explanation or clarification.).

MAKE SURE THAT HE/SHE UNDERSTANDS HIS/HER RIGHTS

- It is not enough that the victim simply confirms with a „Yes." that he/she understood. It is important to verify in an appropriate way, adjusted to each individual victim that he/she comprehends the meaning of each right.

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## OUTCOMES OF THIS APPROACH TO INFORMING THE VICTIM OF RIGHTS

- Contribution to the establishment of his/her sense of security, protection and trust (not only in the specific person but also in the system)
- Cooperation of the victims is the key for the successful outcome of criminal proceedings

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INFORMING THE VICTIM ON RIGHTS – PSYCHOLOGICAL ASPECTS

?

What are the intended outcomes

How to achieve them

What can we do so that the victim's rights are really realized

Two things are important in this process: apart from the content-related aspects of informing the victim about his/her rights, the psychological aspect is very important. This means that every person - member of the state body responsible for informing the victim of his/her rights must be sufficiently educated both on the level of knowledge and on the level of the skills. To this end, it is important to raise awareness of the purpose of the information process, that is, what it wants to achieve (whether it is simply to formally go through all the legally prescribed steps or it is important for the victim to gain confidence and security).

Namely, the police, the state attorney's office and the court have the ultimate goal of successful prosecution, i.e. protection of the victim through high-quality prosecution and conviction of perpetrators. If there is awareness that a collaborative victim, as a subject in the proceedings, is one of the factors in the success of the proceedings, than the ways to clearly inform the victim of his/her rights and of the way to realize those rights will be found. How to achieve this?

Primarily, by using an appropriate approach to the victim, each one individually (this will be discussed in the following section/topic). Then, one should be well acquainted with the legal definition of the rights of victims so that information about the possibility of realizing these rights is of high quality, exhaustive and useful. Particularly important is the ability to put oneself in the position of a victim, for whom at this point it is important that someone is listening to him/her carefully, that the persons has patience and takes enough time to communicate with him/her. Although the officer may not know fully how/where the victim can exercise his or her right, sometimes it is enough for the victim if the officer/professional refers him/her to the persons, institutions or civil society organizations who can provide more accurate information, assistance or support.

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QUESTIONS
COMMENTS
SUGGESTIONS

Slide 1

# How to Approach Victims of Crime

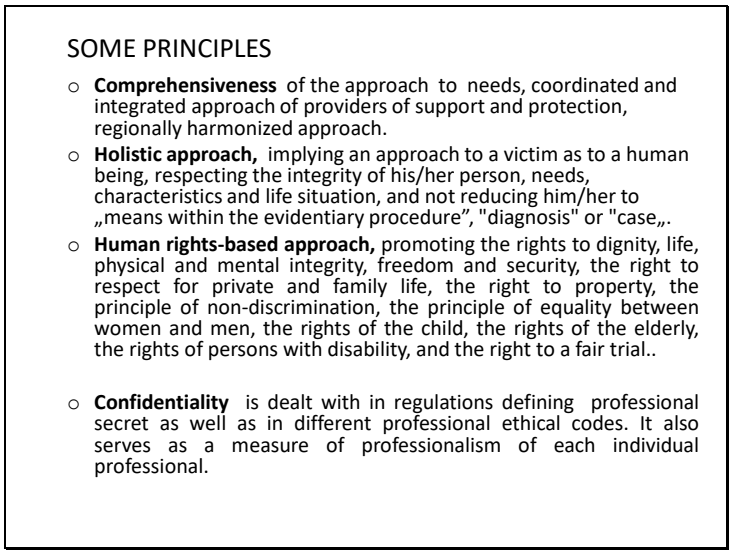
Slide 2

CONTENT OF THE PRESENTATION

I. GENERAL PRINCIPLES OF COMMUNICATION WITH VICTIMS

II. HOW TO APPROACH VICTIMS WHO ARE PERSONS WITH DISABILITIES

Slide 3

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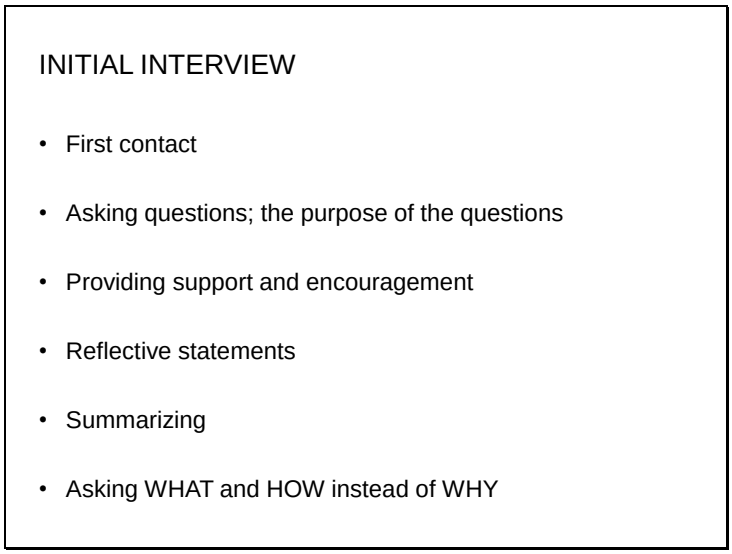



**First contact/Initial interview**

First contact with a survivor of trauma takes form of an interview led by a professional with specific goals and objectives.

In conducting the interview, the professional:

- Should be aware that the person he/she is communicating with is a **unique individual;**
- Should be **holistically engaged**, using all components of his/her behaviour (cognition, emotions, action and non-verbal communication)
- Should assume the egzistential stance of **„I am Ok, you are OK.";**
- Should be aware and take care of **him/herself, of the other, and of the situation**;
- **Will neither judge nor evaluate the victim/survivor;**
- **Will take care of victim's/survivor's needs;**
- **Will keep the information received from the victim/survivor a secret.**

In order to set the conditions neded to start the work of resolving the problem, it is neccessary to create an apropriate atmosphere for joint work. It is also neccessary for both the professional and the victim/survivor to recognize the purpose of the conversation/interview. The professional needs to support the victim/survivor and **allow him/her to express his/her feelings without any fear of judgement or ridicule**. An efficient professional knows how to direct the interview while at the same time maintaining flexibility and following the client.

It is very useful to open the interview with so-called open-ended questions, such as: „What are your expectations of this interview?" OR „In your opinion, how could I be of help to you?" .
Open-ended questions give the client an opportunity to state what he/she would like to talk about. As the interview progresses, when the professional wishes to process of discuss in-depth a certain issue, it is useful to pose some **guiding questions.** After the initial open-ended questions, the interview becomes more and more focused on a problem which the client wishes to address.
As information gathering is one of the purposes of the interview, it is important to **avoid leading questions** and be careful not to influence responses by one's tone of voice.

**Methods of clear communication used in interviewing**

**Paraphrasing, explanation and reflecting**
Paraphrasing is a method whereby a professional reflects back to a victim/survivor the content communicated by him/her in professional's own words, usually summarized, in an abbreviated form. Paraphrasing serves several objectives: the professional checks whether he/she has heard and understood the victim/survivor correctly, and the victim/survivor hears what the professional has said and is given the opportunity to reflect upon those issues. Paraphrasing deepens the relationship between the professional and the victim so that the victim rightfully feels like he/she is being heard and understood.

**Checking and focusing**
During the interview, the professional should repeatedly check whether he/she and the victim/survivor understand certain terms identically (to signify the same thing), and should also repeatedly check whether he/she is understanding correctly what the victim/survivor is trying to communicate to him/her. When the professional is making an assumption that the victim/survivor is aiming to achieve a certain goal, it is important to check such an assumption. Only once the assumption has been checked in a conversation with the victim/survivor, can it be used in efforts directed towards resolving the problem/issue. Focusing serves to define more specifically and narrowly both the scope and the direction of joint work.

**Informing**
The professional provides information to the victim/survivor in order to broaden his/her knowledge on his/her rights and on services made available in the community. In all situations when the professional intends to independently take some actions he/she deems to be beneficial to the victim/survivor, it is neccessary to inform the victim/survivor of such potential actions and ask for his/her consent before taking them.

Key elements in creating the atmosphere conducive to successful work with survivors of trauma are **trust, interest, and a relationship based on equality.**

**Traumatic consequences that can affect the interview process**

### The absence of a chronological order in an account of trauma

Because of the fragmented nature of traumatic memory, the traumatic story is not coherent, either in terms of content or in terms of time. In the statement of a traumatised person, events are intertwined by the logic of traumatic triggers rather than by the logical temporal and cause-effect sequences.

### Repetitiveness of an account of a trauma

The traumatised person will repeatedly repeat parts of the account of a traumatic event until the moment in the conversation he/she recovers the same or similar feelings he/she experienced during the traumatic event. The rationale behind this kind of reaction is the emotional relief that one experiences according to the principle of „What is experienced for the second time, releases one of what was experienced the first time". The healing "corrective experience" of such a procedure is that the same or similar emotional content is re-lived in safe and controlled conditions, enabling the person to gradually overcome a traumatic experience.

### Respect of physical boundaries and process-related boundaries

As for some victims/survivors physical and/or sexual trauma jeoperdized physical integrity of a victim/survivor, it is neccessary to be especially careful about any well-meaning phycial contact (touching) of the victim/survivor. It is recommended to avoid spontaneous friendly touching during the interview. Alternativelly, if a professional wishes to, for example, touch the victim's/survivor's hand or hug him/her in order to provide him/her additional sense of safety, it is recommendced to ask the victim's/survivor's permission beforehand.

Slide 5

**RECOMMENDATIONS FOR INTERVIEWING VICTIMS**

**1. Do no harm**
Treat each woman and each situation as if the possibility for harm is extreme, until you are assured of the opposite. Do not undertake any interviews that could worsen the woman's situation, either in short or longer term.

**2. Know your subject and assess the risks**
Learn which risks are associated with the specific crime and with each individual victim before starting the interview.

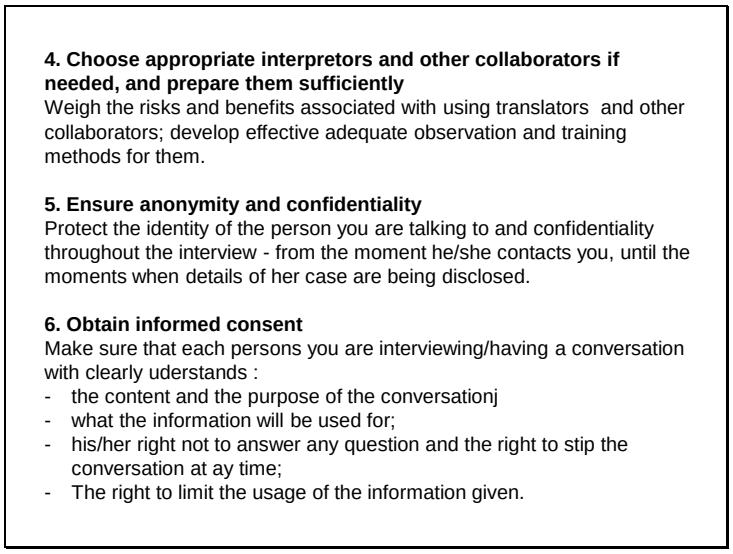
**3. Prepare referral information: Don't offer advice or make promises you cannot keep**
Be ready to provide information in women's mother tongue and in local languages (if different) on the adequate legal and health-related assistance, shelters, social support and safety services, and provide help in the referral process if requested.

Special sensitivity is requested when approaching victims/survivors of violence because it is possible that their **boundaries** might have been breached in their early childhood. It is possible that their boundaries have been crossed and not respected so often that they have given up on

„defending" the boundaries. For them, it is important to become aware of privacy, limits, boundary breaches in their lives. Here, it is important to emphasize that boundaries can be symbolic, too, that is, that they are not present only as spatial boundaries, but also refer to respect of a person's privacy, feelings and opinions. Eople are defined by their boundaries, that is, each person has his/her own boundaries, also called „ me-boundaries". They denote the accepable level of contacts for each person. They encompass a whole spectrum of different boundaries to contact – defined by behavior, values, ideas, memories, etc. – with which a person feels free to come into contact with the world surrounding him/her as well as with things within him/her that would be awakened by such an engagement (Polster ad Polster, 1973). Permeability of boundaries allows for change (personal growth and development), while their firmness allows for personal autonomy.

**Informed consent is a process:** information should be provided continuously, T hat will allow the interviewee to make fully informed choices before, during, and after the interview. (See Appendix „Technique for interviewing the victim of sexual violence", adopted from the International Protocol on Documenting and Investigating Sexual Violence in Conflicts").
Victims of domestic violence interviewed in empirical research conducted within the project „ VICATIS – Victim-centered approach to improving support services" point to the need to be informed not only on rights, but also on the criminal procedure itself and on the available support. processukazuju na potrebu informiranja ne samo o pravima nego i o samom postupku i dostupnoj podršci.

Slide 6



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**7. Listen to and respect the victim's assessment of his/her own situation and of risks to his/her safety**
Understand that each victim has his/her own worries, and that the way he/she perceives tham may differ from the way others perceive them.

**8. Do no retraumatise the victim**
Do not ask any questions directed towards eliciting an emotionaly-loaded response. Be ready to respond to victim's distres and accentuate his/her strengths.

**9. Be ready for an emergency intervention**
Be ready to respond if the victim states that he/she is in an immediate danger.

**10. Use the information you gather purposefully**
Use the information in a way that will be of use to the individual victim or that will promote the development of improved policies and interventions designed to benefits the population of victims in general.

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## INADEQUATE POSITION OF A PROFESSIONAL

**ACTIVE APPROACH**

**Saving**
• professional assumes a role of the omnipotent saviour
• provides help even with things a person can do him/herself
• assumes full responsibility for the case
•over-protects the victim and worries too much

**Withdrawal**
• to survive emotionally, professional intellectualizes the situation
•refers a traumatised person to another professional
• categorises, keeps giving diagnoses, acts from the position of professional power

**IDENTIFICATION** — **AVOIDANCE**

**Excessive empathy**
• professional is over-empathic
• he/she identifies to the extent that he/she feels like a victim him/herself
• is over-engaged, but activities are often inappropriate or confused
• intensive sense of helplessness which can cause disruptions in his/her work

**Minimizing and supression**

• to avoid being „overwhelmed" by feelings, professional „does not see"
• denies or minimises the problem
• "withdraws" and creates a distance
•Blames the traumatised person

**PASSIVE APPROACH**

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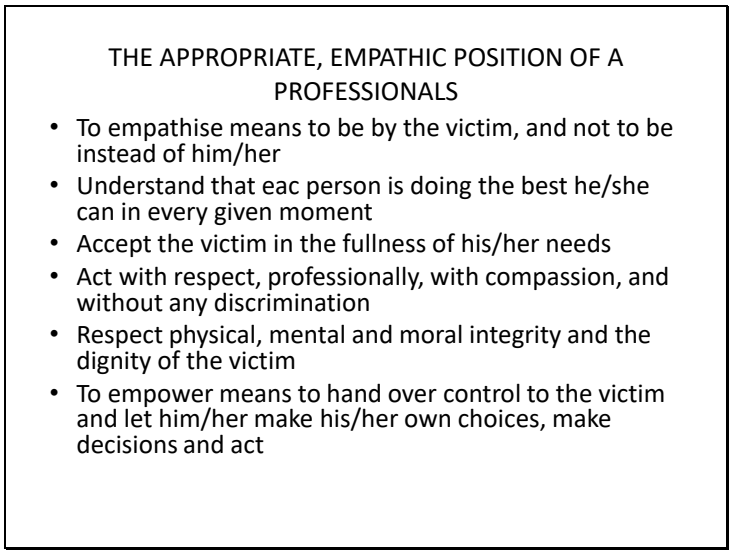


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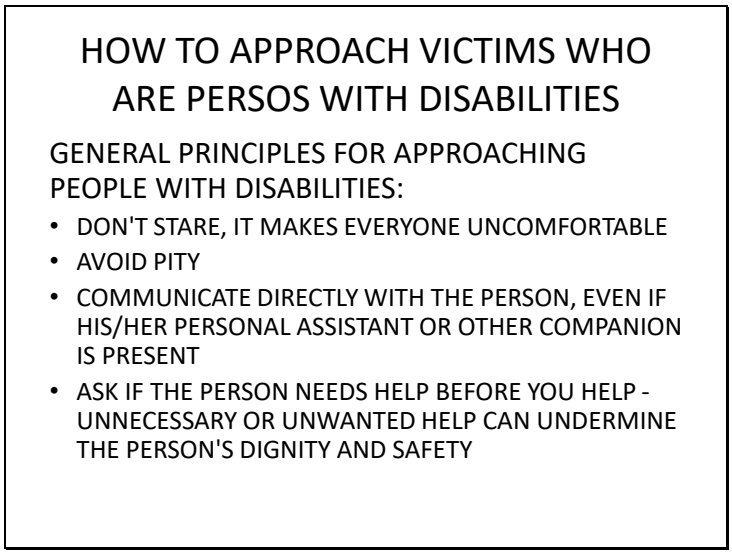


People with disabilities are not a homogeneous group. Each type of disability has its own characteristics and poses different needs.
It is therefore a good idea to get to know the individual's needs and not to assume them.
However, some general principles for approaching people with disabilities apply.

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People with disabilities are like everyone else. By using People First Language, you are reinforcing the basic right of people with disabilities to be addressed first and foremost as people, not their disability.

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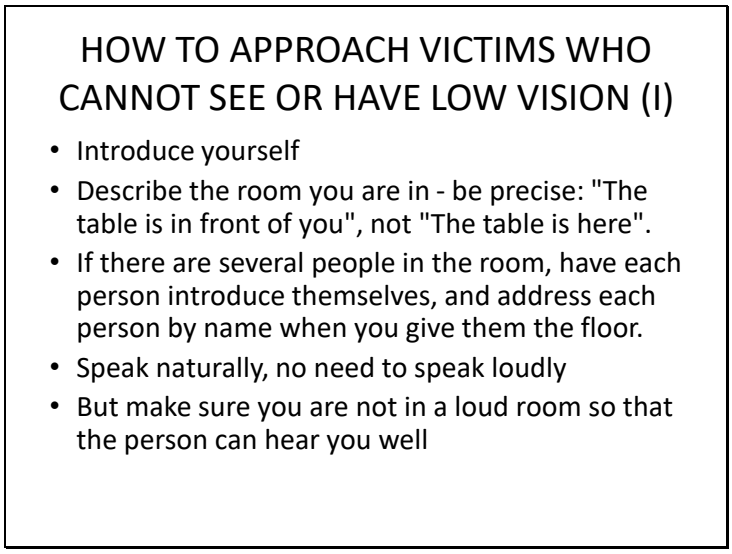

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## HOW TO APPROACH VICTIMS WHO CANNOT SEE OR HAVE LOW VISION (II)

- WHEN YOU ARE LEADING A PERSON WHO CANNOT SEE OR HAS LOW VISION:
- Walk alongside them, half a step ahead
- Don't hold their hand, let them hold your hand
- WHEN LEADING A PERSON WHO CANNOT SEE TO A SEAT
- First ask if you can guide them to the seat by putting their hand on it. If they agree, place their hand on the back of the chair so they can sit down.
- If the chair does not have a back, place their hand on the seat

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## HOW TO APPROACH VICTIMS WHO CANNOT SEE OR HAVE LOW VISION (III)

**DURING THE PROCEEEDINGS**

- Ask what kind of support the person who cannot see or has low vision needs
- Ask in what form they would like to receive the written documents during the procedure:
- If the person reads Braille, provide documents in this format
- If the person has low vision, ask in what format he/she would like to receive the documents (e.g. Arial 12 bold font is often used)
- If the person wants to receive the writings electronically, ask in what format they want them

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## HOW TO APPROACH VICTIMS WITH COMMUNICATION DISABILITIES (I)

- Allow the person to speak. They may speak more slowly than you are used to.
- Don't finish sentences for them and don't rush them
- If you didn't understand, ask them to repeat what they said
- Don't pretend to understand if you didn't
- If you don't understand, ask if someone the person trusts and who understands them could help with the communication by repeating the words the person says

**DURING THE PROCEEDINGS**:

- Ask what kind of support the person needs
- Provide sufficient breaks

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## HOW TO APPROACH VICTIMS WHO CANNOT HEAR (I)

- Ask the person how they want to communicate
- Turn towards the person so they can see you and perhaps read your lips, do not cover your mouth with your hand
- Speak slowly if the person is lip-reading or cannot hear well
- Speak clearly and at a normal volume, do not shout
- If the person is hard of hearing, stay close to them, ensure a quiet, distraction-free room with sufficient light
- Speak directly to the person and not to others who are accompanying (interpreter, family member)
- Have paper and pencil with you if you need to communicate in writing

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## HOW TO APPROACH VICTIMS WHO CANNOT HEAR (II)

DURING THE PROCEEDINGS:

- Ask what kind of support the person needs
- If necessary, provide a sign language interpreter
- Provide information in writing

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## HOW TO APPROACH VICTIMS WITH PHYSICAL DISABILITIES (I)

- Always speak to the person, not to their companion
- If the person uses a wheelchair, sit down when you are talking, especially during a longer conversation
- Ask if the person wants you to help by pushing the wheelchair
- Offer to help open the door

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## HOW TO APPROACH VICTIMS WITH PHYSICAL DISABILITIES (II)

DURING THE PROCEEDINGS:

- Ask what kind of support the person needs
- Provide accessible premises (lifting and carrying a person to premises that are not physically accessible to them violates their dignity and endangers their safety)
- Allow someone they trust or a personal assistant to accompany them during the procedure
- Ensure sufficient breaks

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## HOW TO APPROACH VICTIMS WITH INTELLECTUAL DISABILITIES (I)

- Please note that there are different levels of intellectual disabilities
- Be genuine
- Take time to build trust with each other
- Speak clearly, in short sentences and simple words
- Repeat or rephrase what is said if necessary
- Do not speak childishly or exaggerate
- Help yourself with easy reading materials
- Provide a quiet space for conversation
- Take your time and don't rush
- Check that the person has understood what you have said - you can ask them to repeat what you have said in their own words

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## HOW TO APPROACH VICTIMS WITH INTELLECTUAL DISABILITIES (II)

DURING THE PROCEEDINGS:

- Ask what kind of support the person needs
- Allow a person of trust to accompany the victim during the proceedings
- Ensure sufficient breaks
- Provide written information in the easy read format

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## HOW TO APPROACH VICTIMS WITH PSYCHOSOCIAL DISABILITIES (I)

- If a person is behaving differently than you are used to, it may be related to the specifics of the psychosocial disability they are facing – there are different psychosocial disabilities and have different characteristics, but in any case:
- Take time to communicate, don't judge, don't push
- Be calm and patient
- Respect personal space
- Don't take things personally
- Speak clearly, in short sentences, at a normal volume and tone

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## HOW TO APPROACH VICTIMS WITH PSYCHOSOCIAL DISABILITIES (II)

**DURING THE PROCEEDINGS**:

- Ask what kind of support the person needs
- Allow a person of trust to accompany the victim during the proceedings
- Ensure sufficient breaks
- Provide written information in the form of easy reading

# *TREĆI DIO / TRETJI DEL / PART C*

## *PROJEKTNI REZULTATI ZA HRVATSKU I SLOVENIJU/ PROJEKTNI REZULTATI ZA HRVAŠKO IN SLOVENIJO/PROJECT RESULTS FOR CROATIA AND SLOVENIA*

### *1. Komparativno izvješće i zajedničke preporuke*

Jedan od ciljeva projekta ARVID jest doprinijeti sustavnom pristupu poboljšanoj provedbi Direktive 2012/29/EU o pravima žrtava na populaciji osoba s invaliditetom. Naime, države članice trebaju osigurati da osobe s invaliditetom mogu u potpunosti koristiti sva prava predviđena Direktivom, „na jednakoj osnovi s drugima, uključujući olakšavanjem pristupa prostorima u kojima se vodi kazneni postupak te pristupa informacijama“ (Recital 15 Direktive). Države članice moraju osigurati da komunikacija nadležnih tijela sa žrtvama bude jednostavnim i dostupnim jezikom, uzimajući u obzir i svaku invalidnost (čl. 3. st. 2. Direktive), a invaliditet se mora uzeti u obzir i prilikom provođenja pojedinačne procjene žrtve radi utvrđivanja posebnih potreba zaštite (čl. 22. st. 3. Direktive). Na taj se način omogućuje uvažavanje individualnosti i različitosti pojedinih žrtava, što je jedno od temeljnih načela Direktive, te se ujedno osigurava aktivno sudjelovanje osoba s invaliditetom kao žrtava u kaznenom postupku, što je jedna od osnovnih intencija Direktive.

Poredbena analiza rezultata istraživanja provedenog u Hrvatskoj i Sloveniji, odnosno preporuka koje su nastale kao rezultat empirijskog istraživanja, pokazuju da su temeljni problemi s kojima se susreću ova dva pravna sustava, kada je riječ o unapređenju pravnog položaja osoba s invaliditetom kao žrtava kaznenih djela i ostvarivanju prava zajamčenih Direktivom, vrlo slični. Tome je tako premda je Hrvatska ranije od Slovenije implementirala Direktivu u svoje zakonodavstvo[3] te je moguće zaključiti da u ovom trenutku ima razvijeniji sustav pružanja podrške i pomoći žrtvama kaznenih djela.[4] U tom smislu, moguće je iznijeti sljedeće preporuke u odnosu na oba pravna sustava – hrvatski i slovenski.

1. **Potrebno je osnaživanje osoba s invaliditetom da prijavljuju kaznena djela i prekršaje počinjene na njihovu štetu, posebno u slučajevima kada su ovisne o počiniteljima, kroz izgradnju javno financiranog sustava podrške koji će osobama s invaliditetom omogućiti egzistencijalnu emancipaciju od osoba čijem su nasilju**

[3] Hrvatska je Direktivu transponirala Zakonom o izmjenama i dopunama Zakona o kaznenom postupku od 7. srpnja 2017., koji je stupio na snagu 27. srpnja 2017., dok je Slovenija Direktivu transponirala Zakonom o izmjenama i dopunama Zakona o kaznenom postupku od 26. ožujka 2019., koji je stupio na snagu 20. listopada 2019.

[4] U Hrvatskoj pružanje pomoći i podrške žrtvama kaznenih djela organizirano je u okviru odjela za podršku žrtvama i svjedocima, ustrojenih na sedam županijskih sudova, te kroz „Mrežu podrške i suradnje za žrtve i svjedoke kaznenih djela“ koju sačinjavaju nevladine organizacije, a koji program osigurava pomoć i podršku žrtvama kaznenih djela u onim županijama u kojima nisu osnovani odjeli. S druge strane, u Sloveniji pomoć i potporu žrtvama kaznenih djela pružaju centri za socijalnu skrb i pojedine nevladine organizacije.

**izložene.** Ova preporuka izrijekom je formulirana u Hrvatskom nacionalnom izvješću (Preporuka broj 1, str. 19), ali je primjenjiva i u odnosu na slovensko uređenje, posebno imajući u vidu rezultate održanih fokusnih grupa (Slovensko nacionalno izvješće, točka 1, str. 21).

2. **Potrebno je sustavno raditi na uklanjanju prepreka koje onemogućuju ili otežavaju fizički pristup osoba s invaliditetom tijelima prethodnog te kaznenog i prekršajnog postupka (policija, državno odvjetništvo, sud), kao i tijelima koje pružaju usluge pomoći i potpore žrtvama kaznenih djela i osobama s invaliditetom (organizacije civilnog društva, odvjetnici).** Preporuka odgovarajuća ovoj izrijekom je formulirana u Hrvatskom nacionalnom izvješću (Preporuka broj 2, str. 19), ali je primjenjiva i u odnosu na slovensko uređenje, imajući u vidu rezultate održanih fokusnih grupa (Slovensko nacionalno izvješće, točka 5, str. 22 i Preporuka broj 2, str. 24).

3. **Potrebno je sustavno raditi na uklanjanju prepreka koje otežavaju mogućnost razumljive i učinkovite komunikacije između osoba s invaliditetom i policijskih službenika, državnih odvjetnika i sudova, te na pružanju potpore u komunikaciji osoba s invaliditetom s navedenim dionicima, kako bi se osiguralo ravnopravno sudjelovanje osoba s invaliditetom u kaznenim postupcima.** Preporuka odgovarajuća navedenoj sadržana je u Hrvatskom nacionalnom izvješću (Preporuka broj 3., str. 20), kao i u Slovenskom nacionalnom izvješću (Preporuka broj 4, str. 24). U odnosu na ovu preporuku, važno je uspostaviti suradnju dionika kaznenog pravosuđa s udrugama koje pružaju potporu i pomoć osobama s invaliditetom, a koje imaju specifična znanja, s obzirom na određene kategorije invaliditeta, te koje bi mogle pomoći u osiguranju odgovarajućeg pristupa osobi s invaliditetom i odgovarajućeg informiranja o njezinim pravima.

4. **Potrebno je sustavno raditi na podizanju razine informiranosti osoba s invaliditetom o pravima koja imaju kao žrtve kaznenih djela ili prekršaja.** Ovu preporuku valja shvatiti u užem smislu – kroz obvezu svih tijela prethodnog i kaznenog postupka (policije, državnog odvjetništva i suda) da kroz sve stadije postupka pružaju pouku o pravima koja osobe s invaliditetom imaju kao žrtve, i to u formi prilagođenoj vrsti invaliditeta (Slovensko nacionalno izvješće, Preporuka broj 3, str. 24). Ovu preporuku valja shvatiti i u širem smislu, na način da se sustavnom i širokom kampanjom informiranja korisnika usluga udruga koje pružaju potporu i pomoć osobama s invaliditetom, o pravima koja te osobe imaju kao žrtve kaznenih djela ili prekršaja, osvijeste odnosno identificiraju žrtve kaznenih djela te da im se omogući i olakša korištenje zajamčenih prava (Hrvatsko nacionalno izvješće, Preporuka broj 4, str. 20).

5. **Potrebno je među svim dionicima kaznenog (i prekršajnog) pravosuđa (policijski službenici, državni odvjetnici, odvjetnici, suci) sustavno provoditi edukacije o posebnostima osoba s invaliditetom i prilagođenom postupanju prema njima.** Time bi se ujedno suzbile predrasude i stereotipi vezani uz različite vrste invaliditeta i njihov utjecaj na kazneni postupak (Slovensko nacionalno izvješće, Preporuka broj 5, str. 24). Važnu ulogu u edukaciji mogle bi imati udruge koje pružaju potporu i pomoć osobama s

invaliditetom, s obzirom na specifična znanja o tome kako prepoznati određenu vrstu invaliditeta, kako pristupiti osobi s određenom vrstom invaliditeta i kako komunicirati s njome, te kako postupati i koje specifične prilagodbe poduzeti s obzirom na određenu vrstu invaliditeta (Hrvatsko nacionalno izvješće, Preporuka broj 5, str. 20).

6. **Potrebno je da se udruge koje pružaju potporu i pomoć osobama s invaliditetom povežu s organizacijama civilnog društva koje pružaju potporu i pomoć žrtvama kaznenih djela.** Naime, suradnja udruga osoba s invaliditetom i organizacija civilnog društva koje pružaju potporu i pomoć žrtvama kaznenih djela mogla bi dovesti do boljeg informiranja žrtava i pružanja kvalitetnije pomoći, a istovremeno bi se jačali kompetencije udruga osoba s invaliditetom u pružanju pomoći i podrške žrtvama kaznenih djela, ali i kapaciteti organizacija civilnog društva da, zahvaljujući stečenim specifičnim znanjima, rade s osobama s invaliditetom (Hrvatsko nacionalno izvješće, Preporuka broj 6, str. 21). Uključivanje organizacija koje podupiru osobe s invaliditetom u sustav podrške žrtvama kaznenih djela preporuča i Slovensko nacionalno izvješće (Preporuka broj 8, str. 25).

7. **Potrebno je da se udruge koje pružaju potporu i pomoć osobama s invaliditetom povežu sa svim dionicima kaznenog (i prekršajnog) pravosuđa, napose onima koji provode pojedinačnu procjenu žrtava.** Udruge osoba s invaliditetom, zahvaljujući svojim specifičnim znanjima, trebaju surađivati s tijelima postupka (Slovensko nacionalno izvješće, Preporuka broj 8, str. 25). Udruge osoba s invaliditetom mogu biti uključene u postupke pojedinačne procjene žrtava, budući da zahvaljujući svojim specifičnim znanjima mogu pomoći u identificiranju određene vrste invaliditeta, kao i u identificiranju potreba za posebnim mjerama zaštite (Hrvatsko nacionalno izvješće, Preporuka broj 7, str. 21.)

8. **Potrebno je osigurati da osobe s invaliditetom uvijek mogu ostvariti svoje pravo na pratnju osobe od povjerenja** (Slovensko nacionalno izvješće, Preporuka 6, str. 24). Ulogu osoba od povjerenja mogli bi, u značajnoj mjeri, preuzeti predstavnici Udruga osoba s invaliditetom (Hrvatsko nacionalno izvješće, Preporuka broj 7, str. 22).

### *2. Primerjalno poročilo in skupna priporočila*

Eden od ciljev projekta ARVID je prispevati k sistematičnemu pristopu k boljšemu izvajanju Direktive 2012/29/EU o pravicah žrtev kaznivih dejanj v zvezi z osebami z ovirami. Države članice morajo zagotoviti, da bodo osebe iz ovirami lahko v celoti uživale pravice, ki jih določa direktiva, " enako kot druge osebe, med drugim tako, da zagotovijo lažji dostop do prostorov, v katerih poteka kazenski postopek, in dostop do informacij." (uvodna izjava 15 Direktive). Države članice morajo zagotoviti, da se komunikacija z žrtvami izvaja v enostavnem in dostopnem jeziku, pri čemer je treba upoštevati tudi morebitno oviranost (člen 3(2) Direktive), oviranost pa mora upoštevati tudi pri individualni oceni žrtve, da se ugotovijo posebne potrebe po zaščiti (člen 22(3) Direktive). To kaže na spoštovanje individualnosti in raznolikosti posameznih žrtev, kar je eno od

temeljnih načel Direktive, in ki tudi osebam z ovirami omogoča, da kot žrtve aktivno sodelujejo v kazenskih postopkih, kar je eden od ključnih namenov Direktive.

Primerjalna analiza rezultatov študije, izvedene na Hrvaškem in v Sloveniji, ter priporočila, ki so rezultat empirične raziskave, kažejo, da so temeljni problemi s katerimi se soočata ta dva pravna sistema, ko gre za izboljšanje pravnega statusa oseb z ovirami kot žrtev kaznivih dejanj in uveljavljanja pravic, ki jih zagotavlja Direktiva, zelo podobni. Tako je, čeprav je Hrvaška prenesla Direktivo v svojo zakonodajo prej kot Slovenija.[5] Mogoče je sklepati, da ima prva v tem trenutku bolj razvit sistem zagotavljanja podpore in pomoči žrtvam kaznivih dejanj.[6] Zato je mogoče izraziti naslednja priporočila, ki se nanašajo na oba pravna sistema - hrvaškega in slovenskega.

**1. Osebam z ovirami je treba omogočiti prijavo kaznivih dejanj in drugih prekrškov storjenih proti njim, zlasti v primerih, ko so odvisne od storilcev, in sicer z vzpostavitvijo javno financiranega podpornega sistema, ki bo osebam z ovirami omogočil, da se eksistenčno emancipirajo od oseb, katerih nasilju so bile izpostavljene.** To priporočilo je izrecno oblikovano v hrvaškem nacionalnem poročilu (Priporočilo 1, str. 21), vendar to velja tudi za slovenski pravni red, zlasti če upoštevamo rezultate raziskave srečanj fokusnih skupin (Slovensko nacionalno poročilo, točka 1, str. 21).

**2. Sistematično je treba odpraviti ovire, ki ovirajo ali preprečujejo fizični dostop oseb z ovirami do prostorov, v katerih se izvajajo predkazenski, kazenski in prekrškovni postopki (policija, državna tožilstva, sodišča), ter do prostorov organov, ki zagotavljajo pomoč in podporo žrtvam kaznivih dejanj in invalidom (organizacije civilne družbe, odvetniki).** S tem povezano priporočilo je izrecno oblikovano v hrvaškem nacionalnem poročilu (Priporočilo št. 2, str. 22), vendar velja tudi za slovenski pravni red, ob upoštevanju rezultatov fokusnih skupin (Slovensko nacionalno poročilo, točka 5, str. 22, in Priporočilo št. 2, str. 24).

**3. Sistematično je treba odpraviti ovire, ki preprečujejo možnost razumljive in učinkovite komunikacije med osebami z ovirami na eni strani ter policisti, državnimi odvetniki in sodišči na drugi strani ter na zagotavljanju podpore za komunikacijo oseb z ovirami z zgoraj navedenimi zainteresiranimi stranmi, da bi zagotovili enakopravno udeležbo oseb z ovirami v kazenskih postopkih**. Sorodno priporočilo je oblikovano v hrvaškem nacionalnem poročilu (Priporočilo št. 3, str. 22), pa tudi v slovenskem nacionalnem poročilu (Priporočilo št. 4, str. 25). V zvezi s tem priporočilom je pomembno, da vzpostaviti sodelovanje med deležniki kazenskega pravosodja in nevladnimi organizacijami, ki zagotavljajo podporo in pomoč osebam z ovirami, ki

[5] Hrvaška je direktivo prenesla v Zakon o spremembah Zakona o kazenskem postopku z dne 7. julija 2017, ki je začel veljati 27. julija 2017, Slovenija pa je direktivo prenesla v Zakon o spremembah in dopolnitvah Zakona o kazenskem postopku Zakona o kazenskem postopku z dne 26. marca 2019, ki je začel veljati 20. oktobra 2019.

[6] Zagotavljanje pomoči in podpore žrtvam kaznivih dejanj na Hrvaškem je v okviru Oddelkov za podporo žrtvam in pričam, ustanovljenih pri sedmih županijskih sodiščih, ter v okviru "Mreže za podporo in sodelovanje za žrtve in priče kaznivih dejanj", ki združuje nevladne organizacije in katere program zagotavlja pomoč in podporo žrtvam kaznivih dejanj v tistih županijah, kjer oddelki sodišč niso bili ustanovljeni. Po drugi strani v Sloveniji pomoč in podporo žrtvam kaznivih dejanj nudijo centri za socialno delo in nekatere nevladne organizacije.

imajo posebno znanje, povezano z določenimi vrstami oviranosti in ki bi lahko pomagale zagotoviti ustrezen pristop k osebam z ovirami in ustrezne informacije o njihovih pravicah.

**4. Sistematično je treba poskrbeti za ozaveščanje oseb z ovirami o pravicah, ki jih imajo kot žrtve kaznivih dejanj ali prekrškov.** To priporočilo je treba razlagati ozko - z obveznostjo vseh organov, ki vodijo predkazenski in kazenski postopek (policija, državna tožilstva in sodišča), da v vseh fazah postopka zagotovijo informacije o pravicah, ki jih imajo osebe z ovirami kot žrtve, in to v obliki, prilagojeni vrsti oviranosti (Slovensko nacionalno poročilo, Priporočilo št. 3, str. 24). To priporočilo je treba razlagati tudi v širšem smislu, kar pomeni, da bi bilo potrebno izvajati sistematično in razširjeno informacijsko kampanjo, namenjeno uporabnikom storitev nevladnih organizacij, ki zagotavljajo podporo in pomoč osebam z ovirami, da se te osebe seznani s pravicami, ki jih imajo kot žrtve kaznivih dejanj ali prekrškov, da bi se povečala ozaveščenost in prepoznavanje žrtev kaznivih dejanj ter da bi se jim omogočilo uveljavljanje njihovih pravic (Hrvaško nacionalno poročilo, Priporočilo št. 4, str. 22).

**5. Izvesti je treba sistematično usposabljanje vseh deležnikov v kazenskem (in prekrškovnem) pravosodju (policisti, državni odvetniki, odvetniki, sodniki, itd.) o posebnih potrebah oseb z ovirami in o njim prilagojeni obravnavi.** S tem bi tudi odpravili predsodke in stereotipe, povezane z različnimi vrstami oviranosti in njihovim vplivom na kazenski postopek (Slovensko nacionalno poročilo, Priporočilo št. 5, str. 25). Pomembno vlogo pri zagotavljanju usposabljanja bi lahko igrale nevladne organizacije, ki zagotavljajo podporo in pomoč osebam z ovirami, glede na njihovo posebno strokovno znanje o tem, kako prepoznati določeno vrsto oviranosti, kako pristopiti k osebam z določeno vrsto oviranosti in kako komunicirati z njimi, ter o tem, kako ravnati in katere posebne prilagoditve je treba izvesti v zvezi s posameznimi vrstami oviranosti (Hrvaško nacionalno poročilo, Priporočilo št. 5, str. 22).

**6. Nevladne organizacije, ki zagotavljajo podporo in pomoč osebam z ovirami, bi morale vzpostaviti stike z organizacijami civilne družbe, ki zagotavljajo podporo in pomoč žrtvam kaznivih dejanj.** Sodelovanje nevladnih organizacij, ki združujejo osebe z ovirami, z organizacijami civilne družbe in drugimi inštitucijami, ki zagotavljajo podporo in pomoč žrtvam kaznivih dejanj, bi lahko privedlo k boljšemu zagotavljanju informacij žrtvam in boljši pomoči, hkrati pa krepitev kompetenc tako nevladnih organizacij, ki združujejo in podpirajo osebe z ovirami, pri nudenju podpore žrtvam, hkrati pa tudi zmogljivosti organizacij civilne družbe, ki se ukvarjajo z zagotavljanjem pomoči in podpore žrtvam kaznivih dejanj, za delo z osebami, ki imajo lahko zaradi oviranosti določene drugačne potrebe (Hrvaško nacionalno poročilo, Priporočilo št. 6, str. 23). Vključevanje organizacij, ki podpirajo osebe z ovirami, v sistem podpore žrtvam kaznivih dejanj, je prav tako priporočilo iz slovenskega nacionalnega poročila (Priporočilo št. 8, str. 27).

**7. Nevladne organizacije, ki nudijo podporo in pomoč osebam z ovirami, bi morale vzpostaviti stike z vsemi deležniki v kazenskem (in prekrškovnem) pravosodnem sistemu, zlasti s tistimi, ki izvajajo individualno oceno žrtev.** Nevladne organizacije, ki združujejo in podpirajo osebe z ovirami morajo zaradi svojega posebnega strokovnega znanja in izkušenj

sodelovati z organi ki vodijo postopke (Slovensko nacionalno poročilo, Priporočilo št. 8, str. 27). Te nevladne organizacije lahko sodelujejo pri individualni oceni žrtve, saj lahko zaradi svojega posebnega strokovnega znanja in izkušenj pomagajo opredeliti določeno vrsto oviranosti, pa tudi pri ugotavljanju potreb po posebnih zaščitnih ukrepih (Hrvaško nacionalno poročilo, Priporočilo št. 7, str. 24).

**8. Zagotoviti je treba, da lahko osebe z ovirami vedno uveljavljajo svojo pravico, da jih spremlja zaupna oseba** (Slovensko nacionalno poročilo, Priporočilo št.6, p. 26). Vlogo zaupne osebe bi lahko v veliki meri prevzeli predstavniki nevladnih organizacij oseb z ovirami (Hrvaško nacionalno poročilo, Priporočilo št. 7, str. 24).

### *3. Comparative Report and Recommendations*

One of the objectives of the ARVID project is to contribute to a systematic approach to the improved implementation of Directive 2012/29/EU on the rights of victims of crime concerning the population of persons with disabilities. Member States must ensure that persons with disabilities are able to benefit fully from the rights provided for by the Directive "on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information" (Recital 15 of the Directive). Member States must ensure that communications with victims are given in simple and accessible language, also taking into account any disability (Article 3.2 of the Directive), and disability must also be taken into account when an individual assessment of the victim is carried out to identify specific protection needs (Article 22.3 of the Directive). This shows respect for the individuality and diversity of individual victims, which is one of the fundamental principles of the Directive, and which also allows persons with disabilities to participate actively as victims in criminal proceedings, which is one of the key intentions of the Directive.

A comparative analysis of the results of a study conducted in Croatia and Slovenia, and the recommendations made as a result of empirical research, show that the fundamental problems that these two legal systems face when it comes to improving the legal status of persons with disabilities as victims of crime, and to exercising the rights guaranteed by the Directive, are very similar. This is so even though Croatia transposed the Directive into its legislation earlier than Slovenia.[7] It is thus possible to conclude that, at this point in time, the former has a better developed system of providing support and assistance to victims of crime.[8] Therefore, it is possible to express the following recommendations relating to both legal systems – the Croatian and the Slovenian one.

[7] Croatia transposed the Directive into the Act on Amendments to the Criminal Procedure Act of 7 July 2017, which came into force on 27 July 2017, whereas Slovenia transposed the Directive into the Act on Amendments to the Criminal Procedure Act of 26 March 2019, which came into force on 20 October 2019.

[8] Providing assistance and support to victims of crime in Croatia has been organized within Victim and Witness Support Departments established within seven County Courts, and through the "Network of Support and Cooperation for Victims and Witnesses of Criminal Offences" which brings together NGOs, and whose programme provides assistance and support to victims of crime in those counties where court departments have not been established. On

9. **Persons with disabilities need to be empowered to report criminal and other offences perpetrated against them, especially in cases when they are dependent on the perpetrators, through the building of a publicly funded support system which will enable persons with disabilities to become existentially emancipated from the persons to whose violence they have been subjected.** This recommendation is explicitly formulated in the Croatian National Report (Recommendation 1, p. 21), but is also applicable to the Slovenian legal order, especially when keeping in mind the results of the focus group meetings (Slovenian National Report, point 1, p. 21).

10. **Systematic work needs to be done on removing the obstacles that impede or hinder the physical access of persons with disabilities to premises where preliminary, criminal and misdemeanour proceedings are conducted (the police, state attorney offices, courts), as well as to the premises of bodies providing assistance and support to victims of crime and persons with disabilities (civil society organizations, lawyers).** A related recommendation is explicitly formulated in the Croatian National Report (Recommendation no. 2, p. 22), but it is also applicable to the Slovenian legal order, while keeping in mind the results of the focus group meetings (Slovenian National Report, point 5, p. 22, and Recommendation no. 2, p. 24).

11. **Systematic work needs to be done on removing the obstacles that hinder the possibility of intelligible and effective communication between persons with disabilities on the one hand, and police officers, state attorneys, and courts, on the other hand, and on providing support for the communication of persons with disabilities with the above stakeholders in order to ensure the equal participation of persons with disabilities in criminal proceedings.** A related recommendation is formulated in the Croatian National Report (Recommendation no. 3, p. 22), as well as in the Slovenian National Report (Recommendation no. 4, p. 25). With regard to this recommendation, it is important to establish cooperation between criminal justice stakeholders and NGOs providing support and assistance to persons with disabilities, which possess specific knowledge related to certain types of disability, and which could help provide an appropriate approach to a person with disability, and appropriate information about his or her rights.

12. **Systematic work needs to be done to raise the awareness of persons with disabilities about the rights that they have as victims of criminal offences or misdemeanours.** This recommendation must be interpreted narrowly – through the obligation of all the bodies conducting preliminary and criminal proceedings (the police, state attorney offices, and courts) to provide, through all the stages of the proceedings, information about the rights that persons with disabilities have as victims, and to do so in a format adapted to the type of disability (Slovenian National Report, Recommendation no. 3, p. 24). This recommendation should also be interpreted in a broader sense, meaning that a systematic and widespread information campaign aimed at the beneficiaries of the services of NGOs that provide support and assistance to persons with disabilities should be conducted by informing these persons about the rights they have as victims of criminal or other offences, in order to raise awareness and to identify the victims of crime, and

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the other hand, in Slovenia, assistance and support to victims of crime is offered by social welfare centres and some NGOs.

to make it possible for them to exercise their guaranteed rights (Croatian National Report, Recommendation no. 4, p. 22).

13. **Systematic training needs to be carried out among all the stakeholders of the criminal (and misdemeanour) justice system (police officers, state attorneys, lawyers, judges, etc.) on the specific needs of persons with disabilities and on treatment adjusted to them.** This would also supress the prejudices and stereotypes related to different types of disabilities and their effect on criminal proceedings (Slovenian National Report, Recommendation no. 5, p. 25). An important role in the provision of training could be played by NGOs that provide support and assistance to persons with disabilities, considering their specific expertise on how to identify a particular type of disability, how to approach persons with a certain type of disability and how to communicate with them, as well as how to act and what specific adjustments to make with regard to a particular type of disability (Croatian National Report, Recommendation no. 5, p. 22).

14. **NGOs that provide support and assistance to persons with disabilities should establish contact with civil society organizations that provide support and assistance to victims of crime.** The cooperation of NGOs for persons with disabilities with civil society organizations that provide support and assistance to victims of crime could lead to the better provision of information to victims, and better assistance, simultaneously strengthening the competences of NGOs for persons with disabilities in providing assistance and support to victims of crime, as well as the capacities of civil society organizations, thanks to the specific knowledge they acquire, to work with persons with disabilities (Croatian National Report, Recommendation no. 6, p. 23). The involvement of organizations supporting persons with disabilities into the system of support to victims of crime is also a recommendation set out in the Slovenian National Report (Recommendation no. 8, p. 27).

15. **NGOs providing support and assistance to persons with disabilities should establish contacts with all the stakeholders in the criminal (and misdemeanour) justice system, especially those carrying out the individual assessment of victims.** NGOs for persons with disabilities, thanks to their specific expertise, must cooperate with authorities conducting the proceedings (Slovenian National Report, Recommendation no. 8, p. 27). NGOs for persons with disabilities can be involved in the individual assessment procedures of victims, since, thanks to their specific expertise, they can help identify a particular type of disability, as well as identify needs for special protection measures (Croatian National Report, Recommendation no. 7, p. 24).

16. **It needs to be ensured that persons with disabilities can always exercise their right to be accompanied by a trusted person** (Slovenian National Report, Recommendation no. 6, p. 26). The role of a trusted person could, to a significant extent, be taken over by representatives of NGOs for persons with disabilities (Croatian National Report, Recommendation no. 7, p. 24).