

NATIONAL REPORT



**Victims of Crime
Implementation Analysis
of Rights in Europe**



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Implementation Analysis
of Rights in Europe

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DISCLAIMER

All views expressed in the present report are those of the authors and not of the European Commission.

Most findings of the report are based on the research conducted by national researchers, between June 2018 and March 2019, and any inaccuracies in the interpretation of national results lays with the authors of the present report only. Additional support research, in particular regarding international experiences, was conducted by the authors of the present report.

The findings compiled in the present report represent, to the best of authors' abilities, the current situation of the practical implementation of the EU Victims' Rights Directive. Given its scope and ambition, authors are aware that some elements may be inaccurate or out of date. However, it was still important to offer the first overall picture, even if incomplete, of the practical implementation of the Directive, to inform future work of Victim Support Europe, its members and the policy initiatives at the EU and national level. Future efforts will be plan to improve the findings and provide a more detailed analysis of key rights defined in the Directive.

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EXECUTIVE SUMMARY

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) was introduced in Latvia, when amendments to 21 legal acts came into force, the most significant of which were in Criminal Procedure Law. Therefore there is a reason to consider that transposition of the Victims Directive in Latvia has taken place until 23 March 2016¹. The transposition process of the Directive of victims in Latvia in general is to be assessed as successful and there are reasons to consider that the Directive has been adopted in full. The process was accelerated by pre-works commenced in a timely manner – with regards to both, improvement of legal norms, as well as adoption of the practice to be developed from other European countries, which was possible thanks to a number of projects implemented in Latvia and funded by the European Commission² and the study performed during these projects.

This study performs comprehensive study of the transposition process of the Victims Directive and results thereof, namely, analyses the victim support system in Latvia from the legal and theoretical perspective, as well as the practical application of legal norms. The study analyses the activities in the area of victim support in Latvia, which started as of 2007 until the end of May 2018.

During the development of this report, researchers were able to identify **gaps and challenges** regarding the transposition and application of the Victims' Directive. The support system of victims in Latvia, in general, is still assessed as complex and purposefully established system; it is fragmented in terms of both, the legal framework as well as support measures available to victims.

Additionally, there is still a situation when the assistance of an advocate is provided free of charge for a suspect or accused, but services of the advocate and legal consultation shall be covered by the victim by his/her own means, unless the victim of crime has been recognized as a poor person or a minor, in accordance with the special procedure.

¹ The draft law No. 90/TA-856 (2015) Amendments to the Criminal Procedure Law and annotation. Retrieved from <http://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/0/A2A8DD03D30A2D10C2257E580025A39E?OpenDocument#b>

² The most important projects: 1) Improving Protection of Victim's Rights: Access to Legal Aid (2013-2014). Retrieved from <http://providus.lv/en/article/improving-protection-of-victim-s-rights-access-to-legal-aid> ; 2) Support for Victims of Crime: Substantial or Nominal. Latvia and Beyond (2011-2013). retrieved from <http://providus.lv/en/article/support-for-victims-of-crime-substantial-or-nominal-latvia-and-beyond> ; 3) Outstanding problems of restorative justice, perspective solutions within the European Union (2012). Retrieved from <http://providus.lv/en/article/outstanding-problems-of-restorative-justice-perspective-solutions-within-the-euroepan-union-research-on-the-regulation-on-the-security-measures-for-safety-of-society-within-european-union-tm-2012-13-ek>

Moreover, quite often victims do not receive the compensation for losses caused as a result of a crime at all or in full due to the fact that the offender does not have any financial or other resources. The system for recovery of losses from the offender should be improved in favour of the victim, probably considering the establishment of the Fund for support of victims.

Furthermore, the state compensation mechanism for victims of crimes should be improved, including increasing the range of persons to whom the compensation shall be paid, as well as regularly assessing and improving the volume of compensation, in accordance with the real needs of victims.

Nevertheless, researchers were also able to identify examples of **good practices**. One of the most significant initiatives worth mentioning, which may be adopted also by other countries in case of need, is the support phone line for victims of crimes, operating since August 2015 and providing consultation for victims via phone (116006 is the number of the line). It is important that this line operates in the same platform with the website www.cietusajiem.lv, created by the non-governmental organization Skalbē.

It is also important to note the Centra Dardedze initiative to support child victims, namely the creation of a Children's Home, so that child victims and children witnessed can provide evidence in a safe environment in the course of criminal proceedings, while reducing the risks of secondary victimization.

Moreover, the development of rehabilitation of children, who have suffered from violence, provision of support for families, where violence has been established, as well as provision of support to victims is also an example of a good practice. It should be mentioned that amendments to the Criminal Law made in 2018 are of significant meaning, contributing not only to the elimination of physical, but also emotional violence and prevention of victimization.

In conclusion significant amendments were made to legal acts, where significant efforts were taken for practical implementation of the Directive. Supplementations to Criminal Procedure Law were made with particular care, which enabled to significantly improve the legal status of victims, as well as introduce a number of successful practical solutions. The most significant ones include - introduction of the concept of the specially protected victim; there are more cases provided in legal norms, when the criminal proceeding is being initiated without a complaint of the victim; even if the victim has died as a result of a criminal offence, any of his/her close relatives of the deceased may be a victim in the criminal proceeding; fundamental rights of victims in the criminal proceeding are formulated in the new wording; special requirements are determined for hearing of the victim during the pre-trial criminal proceeding, but interrogation of the specially protected victim shall be performed in a separate room appropriate for that, as well as other significant innovations were introduced.

In order to continue to improve the condition of victims of criminal offences, the support system of victims as a "one stop" agency should be introduced, where a victim could receive everything necessary at one place. The support system of victims should not only be regularly assessed, but its improvement thereof should be continued, because currently there are no grounds to consider that the support system of victims in Latvia is perfect.

Moreover it is necessary to provide that victims of crimes have the right to the assistance of advocates or legal aid funded by the State, without proposing any conditions for provision of such aid. The only condition could be that a person shall be found as a victim in the criminal proceeding on the basis of the decision made by the person directing the proceedings.

Furthermore a single range of services (support services and legal consultations) should be developed for victims, including for specially protected victims.

Finally the access to services for the victims, who live in rural areas and outside of towns, should be improved.

INTRODUCTION

The process of development and introduction of legal acts is never simple. Mainly when the target group of the legal framework is particularly sensitive people, who the public has not been able to protect from adverse consequences caused by crimes. Due to this reason victims face the criminal law regulation system, within the framework of which they have to be able to protect their rights to compensation, at the same time healing the emotional and physical traumas. The purpose of the Victims' Directive is to strengthen the human protection systems in Europe, leaving the selection of mechanisms for introduction thereof at the discretion of Member States. This study has analysed the performance and further challenges of Latvia in transposing and implementing the Victims' Directive.

Hence, the purpose of this report is to analyse the transposition process of the Victims Directive analyse its practical implementation, and to provide proposals and recommendations as a result for further development of the support of victims in the country in general.

For this purpose, an adequate **methodology** was created and adopted. The first step was a legislative analysis. The second step was the mapping of competent authorities and organisations. In order to assess how the Victims' Directive has been implemented, it is vital to know more about national legislation, to know how the Directive was transposed into national law in order to further analyse if such legislation is being implemented, how and by whom. Mapping competent authorities and organisations is essential to guarantee that detailed answers will be provided by the competent authorities and organisations which relate to victims.

To support the work presented in this report, three research tools were developed in order to obtain the desired information: a desk research, an online survey, and interviews.

First, the desk research was developed through the analysis of existing literature, legislation. Other sources were analysed, such as shadow reports, activity reports, but also newspaper articles and articles from subject literature.

In order to fill in the gaps of information encountered during the desk research, the researchers resorted to the second research tool, the online survey. This was disclosed to professionals working directly with victims in order to obtain information which could complement the desk research. 30 specialists of law enforcement institutions and non-governmental sector replied to the survey. In order to complete the information further, the third research tool was employed, the interviews.

Regarding the period of time to which the study refers to information collected relates to events situation between 2008 and 2018. Such an approach was selected, because a number of measures, discussions and decisions of specialists were commenced in Latvia a long time before transposition of the Directive and commencement of its implementation. Therefore the analysis of the situation was performed during the course of ten years, which enables the reader to understand in depth the reasons of adoption of several decisions, development of mechanisms for issue settlement as well as changes in legal provisions and practical work with victims of crime.

With regard to its structure, the report begins with a basic overview of the legal framework in Latvia related to the transposition of the Victims' Directive, identifying to what extent Latvia is compliant with this binding legal instrument. The report then analyses 25 of the Directive's Articles in terms of their transposition and practical implementation in Latvia, while also providing background information on the situation of victims of crime in the country. The final sections of the report include good practices that have been identified, as well as gaps, challenges and recommendations which are intended to promote a complete and adequate implementation of the Victims' Directive in Latvia.

BASIC OVERVIEW OF THE LEGAL FRAMEWORK

Fundamental rights of every person are protected by law in the Republic of Latvia, at first, they are foreseen in the Constitution of the Republic of Latvia³ (hereinafter – Constitution)⁴. Special support is determined to disabled children, children left without parental care or who have suffered from violence.

On the basis of such fundamental human rights, the special legal framework follows in legal sectors, including with regards to persons, who have suffered in criminal offences. The first public entity meeting the victim is the police. Police has broad duties in relation to protection of persons from criminal offences, regulated, at first, by the Law on Police⁵. Thus the Law on Police determines that the tasks of the police are to guarantee the safety of persons and society, to prevent criminal offences and other violations of law, to disclose criminal offences and search for persons who have committed criminal offences as well as to provide assistance to private persons in the protection of their rights. Including to provide emergency assistance to persons, who have suffered as a result of violations of law, accidents or who are in a helpless situation, as well as to provide assistance to minors who have been left without the supervision of their parents or their substitutes. The police has number of duties with regards to victims of crimes, including to provide for the safety of witnesses, victims, other persons and members of their families, as well as the guarding of their property. A special legal framework has been adopted in Latvia in 2014⁶, the purpose of which is to ensure preventive actions of police and court in cases, when a person has a risk to become a victim of violence (including threats caused by family members). In such cases the police has the right to remove the person causing a risk of violence from home, after which the court shall impose obligations upon the violent person (such as not to stay in a dwelling, not to approach the victim), in case of failure to comply with the criminal liability may occur in accordance with legal norms of the Criminal Law (Section 168.1)⁷. Besides, the Criminal Law provides special protection of minors from criminal offences (Chapter

3 THE CONSTITUTION OF THE REPUBLIC OF LATVIA. Adopted 15.02.1922. Retrieved from <https://likumi.lv/ta/en/en/id/57980-the-constitution-of-the-republic-of-latvia>

4 The fundamental human rights are determined in Chapter VIII of the Constitution, which stipulates that everyone has the right to know about his or her rights and lawful interests in a fair court, that everyone shall be presumed innocent until his or her guilt has been established in accordance with law, but where his or her rights are violated without basis, has a right to commensurate compensation and a right to the assistance of counsel. At the same time with the above mentioned the Constitution determines that everyone has the right to liberty and inviolability, the right to inviolability of his or her private life, home and correspondence, as well as emphasizes that the State shall protect the family, the rights of parents and rights of the child.

5 On Police. Adopted 04.06.1991. Retrieved from <https://likumi.lv/ta/en/en/id/67957-on-police>

6 Procedure According to Which the Threat of Violence are Eliminated and Temporary Protection against Violence is Provided. Adopted 15.02.2014. Retrieved from <https://likumi.lv/doc.php?id=265314>

7 The Criminal Law. Adopted 01.04.1999. Retrieved from <https://likumi.lv/ta/en/en/id/88966-the-criminal-law>

XVII), including from such criminal offences as - failure to comply with a ruling on the protection against violence, involving of a minor in a criminal offence, cruel or violent treatment of a minor and others. The Criminal Law of Latvia in total contains references to 22 European Parliament and Council directives. Rights of victims of crimes are determined in another two significant legal acts, namely: Law On Legal Aid⁸, stipulating the right to the State funded legal aid to low-income victims, and the Law On State Compensation to Victim⁹, stipulating to provide a natural person who, in accordance with the procedures laid down Criminal Procedure Law, has been recognised a victim with the right to receive a State compensation for moral injury, physical suffering or financial loss resulting from an intentional criminal offence.

On 16 March 2016 the most important amendments were made to Criminal Procedure Law¹⁰. As a result of overtaking of the Directive 2012/29/EU the following most significant provisions are determined or clarified in the legal norms of Criminal Procedure Law (hereinafter – CPL):

a) **provisions for initiation of a criminal proceeding**, providing more such cases in the legal norms, when a criminal proceeding is initiated without a submission of the victim (on the basis of the event rather than statement of the victim; Section 7 of the CPL);

b) If a person, who is a victim, dies, one of the members of the immediate family of the deceased **may be the victim in criminal proceedings** (Section 95 of the CPL). Besides, a person may be recognised as a victim only with the written or verbal consent of such person or his or her representative. If a person who does not want to be a victim, he or she shall obtain the status of a witness. If a person, due to physical or mental deficiencies, is not able to express his or her will to be a victim by himself or herself, the person shall be recognised as a victim without his or her consent (Section 96 of the CPL);

c) **the range of specially protected victims** has been determined, including *persons, who are* - minors; not able to completely exercise his or her procedural rights due to a mental or other health deficiencies; who have suffered from a criminal offence directed against the morality or sexual inviolability of a person, or from human trafficking; who have suffered from a criminal offence related to violence or threat of violence and committed by a member of the immediate family, former spouse of the victim or by a person with whom the victim was in unregistered spousal relationship; who as a result of a criminal offence have been, possibly, inflicted serious bodily injuries or mental impairments; or who have suffered from a criminal offence, possibly, committed due to racial, national, ethnic, or religious reasons (Section 96.1 of the CPL). A specially protected victim has the right to request that his or her participation and hearing in a court session takes place using technical means (such as Skype, video conference or other

8 State Ensured Legal Aid Law. Adopted 15.02.2005. Retrieved from <https://likumi.lv/ta/en/en/id/104831-state-ensured-legal-aid-law>

9 On State Compensation to Victims. Adopted 18.05.2006. Retrieved from <https://likumi.lv/ta/en/en/id/136683-on-state-compensation-to-victims>

10 Criminal Procedure Law. Adopted 21.04.2005. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

remote communication means; Section 99 of the CPL). A specially protected victim has the right to receive information regarding discharge or break away of the detained person, who has caused harm to him or her. The police, prosecutor's office, court or penal service institution shall send the relevant information to the victim as soon as they have become aware of the discharge or break away (Section 277 of the CPL);

d) **fundamental rights of victims** in the criminal proceedings are formulated in the new wording, determining that a victim shall have the following rights - to receive information regarding the conditions for receipt of a compensation, and to submit an application regarding compensation for the harm; to participate in criminal proceedings, using the language in which he or she is fluent, if necessary, using the assistance of an interpreter without remuneration; to not testify against himself or herself or against his or her immediate family; to receive information regarding the right to settle with a person who has inflicted harm to him or her, as well as implementation of the settlement and its consequences; to invite an advocate for the receipt of legal assistance; to receive information for taking measures in case of a threat to the person himself or herself, his or her immediate family or property and procedure according to which procedural expenses which have arisen during criminal proceedings are to be reimbursed, as well as to receive contact information for communication regarding the particular criminal proceedings and information regarding the support and medical assistance available; as well as information on the way, how to appeal procedural rulings and regarding an action of an official authorised for the performance of criminal proceedings. As soon as the person is recognised a victim, he or she shall, without delay, be issued and, if necessary, explained the information regarding the fundamental rights of the victim. (Section 97.1 of the CPL);

e) special features have been determined for **interrogation of a victim** (acquisition of testimonies, hearing) during the **pre-trial criminal proceedings**, including - interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of persons not related to the particular procedural action and it is performed as much as possible by one and the same person. If a person has suffered of violence committed by a person upon whom the victim is dependent financially or otherwise, a victim of human trafficking, or a criminal offence directed against morality or sexual inviolability of the person, shall be conducted by a performer of an investigative action of the same gender (Section 151.1 of the CPL).

Both, Criminal Procedure Law as well as the Sentence Execution Code of Latvia, include references to the Directive 2012/29/EU. As for the definition of "victim", during discussions at the time of the transposition of the Directive it was concluded that the role and status of a victim of criminal offence may be very much different in criminal proceedings of different Member States. A victim in the criminal proceeding of Latvia (Section 95 of the CPL) may be a natural person or legal person to whom harm was caused by a criminal offence, that is, a moral injury, physical suffering, or a material loss. Thus, a person who has suffered him or herself from a criminal offence as

well as indirect victim may be recognized as a victim. Besides, in cases, when a person has died, the victim in the criminal proceedings may be the surviving spouse, one of the ascending or descending relatives of the deceased, or the adopter or a collateral relative of the first degree of such deceased.

In Latvia the government grants the relevant financial grant from the State budget for implementation of each of the above mentioned legal acts and protection of rights of victims, including the website for victims of criminal offences www.cietusajiem.lv and support phone 116006, provided by the non-governmental organization "Skalbes", is funded from the State budget.

EVALUATION OF PRACTICAL IMPLEMENTATION

ARTICLE 2 - DEFINITIONS

For the purposes of the Directive a 'victim' is a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence or a family members (the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim) of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.

On the basis of legal framework and practice of application thereof in Latvia, there are two definitions of a victim, both of them not conflicting with each other. One definition is directly included in the criminal proceedings – **a victim of criminal offence**. Section 95 of the CPL stipulates that a victim in criminal proceedings may be a natural person or legal person to whom harm was caused by a criminal offence, that is, a moral injury, physical suffering, or a material loss. If a person dies, one of the **members of the immediate family** of the deceased may be the victim in criminal proceedings.

A victim in criminal proceedings may not be a person to whom moral injury was caused as a representative of a specific group or part of society (in such a case a person has the right to make a complaint to the court in accordance with the civil procedure). A natural and legal person shall be recognised as a victim of criminal case only pursuant to the decision of the official conducting the criminal proceedings - investigator - police office, prosecutor, judge or court. A victim – a natural person may implement the rights thereof him or herself, or with intermediation of a representative. The rights of a victim– legal person shall be implemented by the representative thereof.

In order to ensure the implementation of rights, a victim or the representative thereof may invite an advocate for the provision of legal assistance. It is important that each victim may decide him or herself, whether to use his or her rights or not. Non-use of the rights at all or any part shall not be explained in any way and it may not cause adverse effects for the victim. A victim shall implement his or her rights voluntarily and in an amount designated by him or her¹¹.

The second definition is indirectly included in the CPL. It stipulates¹²: if any violence, that occurs between former or present spouses or other mutually related persons regardless of whether a transgressor is living or has lived in one household with the infringed person, is turned against a person a court or judge may, upon a reasoned application of the person or application which is submitted through the police, take a decision to provide provisional protection against violence (Section 250.45 of the CPL). Not only the suffering person, but also a court, police and other institutions have significant role in the implementation of such means of protection. An application for provisional protection against violence may be submitted by spouses or former spouses; persons between whom children and parent relations exist, guardianship or other out-of-family care relations exist or have existed; persons between whom kinship or affinity relations exist; persons who are living or have lived in one household; persons who have or are expecting a common child, regardless of whether such persons have ever been married or lived together; persons between whom close personal or intimate relations exist or have existed. Although the designation "victim" is not directly used in the CPL in practice such a term is used¹³.

There is a turning point between both concepts existing: provisional protection against violence (in the civil proceeding) is determined in cases, when a harm subject to criminal liability has not yet been caused to the person; if a person is recognized as a victim in the criminal proceedings, activities subject to criminal punishment have already committed against him/her.

In 2017 the Ministry of Justice of the Republic of Latvia developed the draft law. Law on Protection of Persons Exposed to Violence and Violence Risk¹⁴, the legal act is currently being in the development stage. In case of adoption thereof the third definition of "a victim" would

11 Recognition as a victim in criminal proceedings is not and cannot be related to the sexual orientation, property or family status, religious belief of the relevant natural person and relation with the Republic of Latvia (unless he or she stays legally in the country). That would conflict with the principles of criminal proceedings existing in Latvia (Chapter 2 of the CPL) and the Constitution of the Republic of Latvia.

12 Civil Procedure Law. Adopted 14.10.1998. Retrieved from <https://likumi.lv/ta/en/en/id/50500-civil-procedure-law> <https://likumi.lv/ta/en/en/id/50500-civil-procedure-law>

13 Luksa, M. Pagaidu aizsardzība pret vardarbību ģimenē: pieredze un secinājumi. (2014). Retrieved from <https://lvportals.lv/viedokli/267445-pagaidu-aizsardziba-pret-vardarbibu-gimene-pieredze-un-secinajumi-2014>

14 Draft law "On Protection of Persons Exposed to Violence and Violence and

Violence Risk". (2017). Retrieved from

https://www.tm.gov.lv/files/11_MjAxNy8yOC0wMy9UTUxpa18yNzAzMTdfVmFyZGFyYmliYXNubGlrdW1zLmRvY3g/2017/28-03/TMLik_270317_Vardarbibas.likums.docx https://www.t.m.gov.lv/files/11_MjAxNy8yOC0wMy9UTUxpa18yNzAzMTdfVmFyZGFyYmliYXNubGlrdW1zLmRvY3g/2017/28-03/TMLik_270317_Vardarbibas.likums.docx

appear in legal norms of Latvia: any natural persons, who have suffered from violence, including violence between close persons, or have been exposed to violence risk and have agreed with development of an individual action plan for protection against violence. In case of adoption of the law, this would be the broadest term of a victim and would include the two above described ones, unless the victim provides his or her consent for development of the protection plan.

ARTICLE 3 - RIGHT TO UNDERSTAND AND BE UNDERSTOOD

Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings. Communications with victims should be provided in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim, including (but not limited to) any disability. Victims should, in principle, be allowed to be accompanied by a person of their choice in the first contact.

All criminal proceedings in Latvia take place in the official (Latvian) language. A victim and his/her representative, a witness as well as other persons, involved by the person directing the proceedings, if he/she does not have the knowledge of the official language, may use the language he/she knows and use the assistance of an interpreter whose participation shall be ensured by the person directing the proceedings. This assistance is free of charge. During the pre-trial phase the participation of an interpreter shall be provided by the court. For a person involved in the criminal proceeding, who does not have the knowledge of the official language, when submitting procedural documents, is entitled to translation into the language the person understands.

In criminal proceedings, complaints received in another language shall be translated into the official language only in the case of necessity, which shall be determined by the person directing the proceedings. The person directing the proceedings shall ensure the translation into the official language of the appeal complaints and cassation complaints against court rulings received in another language. Persons, including victims, may use the language in which they are fluent.

The right of a person to use the assistance of an interpreter free of charge shall also apply to persons, who have hearing, speech or visual impairments. When issuing procedural documents to such persons in the cases provided for by the law, the availability of such documents in the language or the manner which such persons are able to perceive shall be ensured¹⁵.

¹⁵ The rights are stipulated in Section 11, Paragraph two of the CPL

If a suffering person who, due to limitations of functioning (of physical or mental nature), is not able to express his/her will, it is assumed that it is in his/her that she/he should be recognised as a victim and therefore it is provided in such a situation that a person should be recognized as a victim without his or her consent. In such a case the victim shall be represented by any of his/her immediate family¹⁶. If none of his or her immediate family can represent the victim, the person directing the proceedings shall invite an advocate.

During overtaking of the Directive, when assessing the effective provisions regarding the rights of victims during the criminal proceedings, it was concluded that it is necessary to establish a separate criminal procedure regulation, summarizing all fundamental rights of the victim in the criminal proceedings in order to make explanation thereof simpler to the victims, in accordance with their understanding and needs. It was introduced during the course of transposing the Victims' Directive that the rights of victims should be explained to them as soon as a person has been declared a victim (decision of the person directing the proceedings), a notification regarding the fundamental rights of a victim shall be issued in writing without delay and, if necessary, the information on the rights should be explained. The victim shall confirm by his/her signature the fact that the rights have been explained sufficiently clear. A representative of a minor person or a victim who is subject to trusteeship due to disability shall be permitted to participate in criminal proceedings with a decision by the person directing the proceedings.

In order to implement the above mentioned provisions, the following has been performed in practice: regular training of police officers, public prosecutors, lawyers, judges and courts staff is performed on the rights of victims in general as well as within the framework of criminal proceedings, including teaching how to deal with victims, who have special protection needs due to their age, maturity, or a status of special protection.

¹⁶ Section 104, Paragraph 3.1 of the CPL

ARTICLE 4 - RIGHT TO RECEIVE INFORMATION FROM THE FIRST CONTACT WITH THE COMPETENT AUTHORITY

Member States shall ensure that victims are offered, without unnecessary delay, from their first contact with a competent authority, information about the type of support the victims can obtain and from whom; the procedures for making a formal complaint; how and under what conditions they can obtain protection, access legal advice and legal aid; access to compensation; entitlement to interpretation and translation; special measures if they are resident in another Member State; contact details for communications about their case; available restorative justice services; how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.

The provisions covered by Criminal Procedure Law in Latvia¹⁷ that are related to provision of victims of criminal offences with information about their rights are being implemented in practice.

In order to describe how practical application of legal norms is performed in Latvia, the following *example* is provided: a person, who has suffered from a criminal offence, appears at the police station and is worried that he/she is not able to submit a written statement to the police officer. The police officer accepts a verbal statement from the victim and registers it, on the basis of which a criminal proceeding is initiated in the particular case. Information is provided to the victim at this moment about the possibilities to receive assistance; medical support and other emergency issues are settled without delay. At the moment, when the person is officially declared as a victim pursuant to the decision made by the person directing the proceedings, the legal consequences of the decision to become a victim are explained to the victim, as well as it is explained that in the case if the victim does not want to be in the status of a victim in the criminal proceeding, the status of a witness may be granted to him/her.

¹⁷ Criminal Procedure Law. Adopted 21.04.2005. Para 97.1., 96. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

If the person confirms that he/she legally wants to be a victim, a decision is made on that and the person directing the proceedings has a duty to explain his/her rights to the victim once again in an understandable language. The assessment is made regarding the fact, whether there are grounds to recognize the person victim with special protection needs. Regardless of the fact, whether the victim is to be specially protected or not, the police officer informs him/her on how to receive state funded compensation and, if necessary, provides support for filling in the application. At this time it is established in what language the victim is able to valuably communicate, and if an interpreter is necessary.

At this moment the rights of a victim are explained to him/her in order not to testify against close relatives, to initiate a settlement, to invite an advocate for receipt of support and other rights. It is important that during the first contact the information prepared in writing is provided to the person, in order he/she would be able to contact later on regarding the course of his/her criminal proceedings. In practice the victim is being regularly informed during the course of the criminal proceedings about the progress of the case, for example, if the case is further transferred to the prosecutor's office for commencement of the criminal prosecution, or decisions are made in the case that may violate the rights of the victim; the victim is informed about the time, when the case is transferred for the trial phase.

Information to the victim is provided in different ways, considering the fact that at the moment of the first contact the victim may be in a state of temporary confusion or shock and it could be complicated for him/her to remember explanations of the police officer later on. In such cases the second contact works well, when the victim repeatedly contacts with police after few days, when he/she can receive the necessary information already in more peaceful conditions, which should be available also on the websites of all law enforcement institutions and on the special site for victims of crimes www.cietusajiem.lv or by calling to the phone 116006. During the further course of the criminal proceeding the victim is being regularly informed about his/her rights, depending on/what stage¹⁸ his/her case is (pre-trial phase investigation, trial-phase before a court of first instance, appeal phase or cassation court). Specialists of law enforcement institutions are trained for cooperation with victims of crimes and they are well aware of the fact that victims differently perceive information, namely – that it is enough for ones to receive the initial explanations of the police, in which a lawyer is necessary for further activities, while others prefer to call to the victims support phone or read information on websites.

Since 2012 there were no studies or surveys disclosed in Latvia in order to know whether the selected form of provision of information to victims of crimes is the best. However, it should be mentioned that the non-governmental organization Skalbes, maintaining the support phone for

¹⁸ Criminal Procedure Law. Adopted 21.04.2005. Para 99.-101. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

victims of crimes and the portal www.cietusajiem.lv, regularly analyses the quality of their work¹⁹ and on the basis of their conclusions it is possible to judge on the satisfaction of victims with the provided services in many aspects.

¹⁹ More information on home page of Crisis and counselling centre Skalbes. Retrieved from <http://www.skalbes.lv/en/>

ARTICLE 5 – RIGHTS OF VICTIM WHEN MAKING A COMPLAINT

Member States shall ensure that victims receive written acknowledgement of their formal complaint. Where they do not understand or speak the language of the competent authority, they should be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance. The acknowledgement should be translated free of charge where the victim doesn't speak the language.

In the context of this Article two kinds of situations are possible: *the first situation*, when a person informs the police on the criminal offence. In accordance with the Law On Police²⁰, the police has a duty to record information regarding criminal offences and other violations of the law and regarding persons who have committed such, as well as incidents that endanger public safety, and to react without delay, providing emergency assistance to persons who have been injured as a result of violations of the law.

In-depth professional discussions have taken place in Latvia regarding registration of criminal offences and responsibility of the police in this area, as a result of which the government of Latvia has adopted Regulations Regarding the Procedures for Registration of Events and Reaction Time of the Police²¹ in 2011. The Regulations determine the procedures by which submissions and information regarding criminal offences and other violations of the law, regarding events endangering the safety of persons or public safety, and regarding persons involved therein shall be registered, as well as the amount and term of storage of the information to be registered and the reaction time of the police if information regarding events has been received. Police officers shall ensure inclusion of information in the register in online data transmission mode, where the information on the event (time, place and description of the event) as well as information on the person, who has provided a submission (including victims) should be specified. Cases, where information about a criminal offence or other violation of law are not be registered, are very

²⁰ On Police. Adopted 04.06.1991. Section 10. Retrieved from <https://likumi.lv/ta/en/en/id/67957-on-police>

²¹ Regulations Regarding the Procedures for Registration of Events and Reaction Time of the Police. Adopted 20.03.2012. Retrieved from <https://likumi.lv/ta/en/en/id/245629-regulations-regarding-the-procedures-for-registration-of-events-and-reaction-time-of-the-police> <https://likumi.lv/ta/en/en/id/245629-regulations-regarding-the-procedures-for-registration-of-events-and-reaction-time-of-the-police>

seldom, because such action from the part of the police is to be considered as unlawful and the disciplinary liability is to be applied to the official, who has acted this way, for failure to perform direct official duties.

If the police establishes that a criminal offence has occurred, it shall contact the victim and inform him/her regarding his/her right to be recognized as a victim in the criminal proceedings. Besides, he/she shall be informed about the further progress of investigation of the event in a language understandable by the person. If necessary, an interpreter is requested, paid through the State budget. However, the whole record-keeping in relation to the above mentioned event shall be performed in the official language (Latvian).

Police officers shall evaluate, whether the victim commands the official language. This is assessed during the communication with the victim and there are no tests developed in order to evaluate the victim's communication needs. If a person is able to ask questions and it is obvious that he/she understands the law enforcement professionals, then there are no reasons to consider that an interpreter should be required during the first contact.

The purpose of the Directive is to facilitate to the maximum the involvement of a victim in the criminal proceedings, therefore it was determined during the process of overtaking thereof that a submission of the victim may be accepted also verbally, not only in writing (Section 96, Paragraph three and Section 151, Paragraph 2.1 of the CPL). Information provided by the victim shall be recorded in the protocol (report) and in further procedural activities questions to the victim shall not be asked repeatedly regarding the circumstances of the case previously established.

ARTICLE 6 - RIGHT TO RECEIVE INFORMATION ABOUT THEIR CASE

Member States shall ensure that victims are notified without unnecessary delay of their right to receive information related to criminal proceedings: any decision not to proceed with or to end an investigation or not to prosecute the offender; the time and place of the trial, and the nature of the charges against the offender; of any final judgement in a trial and of information about the state of the criminal proceedings, in accordance with their role in the criminal justice system; about the reason which led to the above mentioned decisions; notification in case the person remanded in custody, prosecuted or sentenced concerning the victim is released from or has escaped detention.

A criminal proceeding is initiated by a procedurally authorised official on the basis of his/her decision, where the reason and grounds for initiation of the criminal proceeding, brief description of the offence, the person, against whom the proceeding is initiated, and the authority or particular person, who has been assigned to direct the proceeding, should be specified. In such decision the authority or person, to whom the assignment was given to lead the criminal proceeding, may be specified. A decision regarding initiation of the criminal proceeding shall not be subject to appeal.

Information about initiation of the criminal proceeding is sent to the prosecutor's office, being responsible for supervision of the investigation, as well as to the person, who has made the formal complaint regarding the criminal offence (victim) within 24 hours.

In case a refusal to initiate a criminal proceeding has been adopted with regards to the submission of complaint, then the person who submitted the information on the possible commitment of a criminal offence, shall be notified. If a substantiated written decision is taken, then a copy of the decision is sent to this person. The person, who has made the formal complaint, may appeal such decision of the person directing the proceedings to the prosecutor within a time period of 10 days after receipt of the written notification.

A victim has the right to receive information immediately after being recognized as a victim, including information about the contact person responsible for communicating to the victim

information on the progress of the proceedings²². A victim may receive explanations via e-mail, phone or by using official correspondence (sending and receiving letters), including by using electronic signature. An official, who has the duty to maintain communication with the victim has at the same time a duty to provide information to the victim in a language and form understandable for him/her and to provide information on the victim's rights and duties in particular situations that are related to implementation of the criminal proceedings. Besides, victims have also the rights to request and receive documentation available in his/her case, to receive copies of case materials of the criminal case to be forwarded to the court that directly refer to the criminal offence the victim has suffered from, to make a petition to the investigation judge to introduce him/her with case materials of special investigation activities that are not enclosed with the criminal case (source documents)²³. Any entity directing the proceeding (police, prosecutor and court) has a duty not only to fulfil the provisions of the law in relations with victims, but also to explain the rights of a victim with regards to particular actions or decisions of officials.

Specially protected victims have the right to request and receive information regarding release or escape of the arrested or convicted person, if there is a threat to the victim and there is not risk of harm to the arrested or convicted person.

It should be taken into account that a person shall integrate into society again after serving of a punishment, and broad disclosure of information regarding the fact that the person is released from the place of imprisonment may harm the person and make his resettlement difficult. Accordingly, the law provides the provision of the above mentioned information to victims in cases, when the risk of repeated threat could exist in reality for a specially protected victim and at the same time the risk for the arrested or convicted person does not exist. Such cases are, for example, when a personal violation has occurred or the guilty person and the victim know each other, the person has suffered from a criminal offence related to violence or threat of violence and is committed by a person of the immediate family, a spouse or former spouse of the victim or by a person with whom the victim was in unregistered spousal relationship, or a person, with whom the victim has a common (single) household²⁴.

The legal acts of Latvia do not contain such a concept as "role in proceedings applied" in the criminal proceedings. A victim has all rights stipulated by law, in order to protect his/her interests foreseen in the law, and the implementation of such rights shall not be disturbed by any other participant of the proceeding, otherwise it would conflict with the general principles of the criminal proceeding.

²² Criminal Procedure Law. Adopted 21.04.2005. Para 97.1 first part, 9. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

²³ Ibid. Para 97.1 first part, 8., 11.

²⁴ Ibid. Para 96.1, 375., 634.

Information about the rights of victims in a simple readable language is posted on the website of the State Police²⁵, and specially developed website for victims of crimes www.cietusajiem.lv. The target group of the website www.cietusajiem.lv includes both, persons who have already suffered from crimes, as well as groups of persons exposed to the risk of victimization, such as: children and their parents, older people, witnesses, those who feel endangered or have seen something dangerous and do not know how to behave in such a situation, or are not sure whether they have suffered from unlawful activities of other persons. Besides, the website contains explanations of legal content regarding behaviour in situations that may be topical for victims of criminal offences or in case of violence. The right to understand and be understood is provided also by the victims support (informative) phone of the non-governmental organization Skalbē, providing the victims with the necessary information for protection of their rights in a practical manner.

Moreover, the law obviously imposes an obligation to officials during the whole criminal proceeding to provide support to the victim for implementation of his/ her rights and interests, including by explaining the rights of a victim in a way, understandable by the victim in the best possible way. In order to ensure implementation of such provisions in practice, regular trainings are provided to specialists of law enforcement bodies for communication with victims. Additionally, specialists are trained on the psychological peculiarities of communication with victims of criminal offences as well as the techniques of the first contact.

²⁵ Cietušajiem (For victims). Retrieved from <http://www.vp.gov.lv/?id=506&said=506> <http://www.cietusajiem.lv/en/>

ARTICLE 7 - RIGHT TO INTERPRETATION AND TRANSLATION

Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings are provided, upon request, with interpretation at least during any interviews or questioning and with translation of information essential to the exercise of their rights in criminal proceedings in accordance with their role. Victims may challenge a decision not to provide interpretation or translation.

Criminal proceedings in Latvia take place in the official (Latvian) language. If a person (person, being entitled for defence, a victim and his/her representative, witness, specialist, expert, auditor as well as other persons) does not have the knowledge of the official language, he/she may use the language he/she knows during the performance of procedural activities, and use the assistance of an interpreter whose participation shall be ensured by the person directing the proceedings free of charge.

During the pre-trial proceeding, the participation of an interpreter shall be provided by the investigation judge or the court²⁶. Moreover when submitting procedural documents in cases provided for in the law a translation into the language the person understands shall be provided. The official performing criminal proceedings may perform a separate procedural action in another language by appending a translation of the procedural documents in the official language.

In the criminal proceedings, complaints received in another language shall be translated into the official language only in the case of necessity, which shall be determined by the person directing the proceedings.

The provisions on the right of a person to use the language that the person understands and to use the assistance of an interpreter free of charge shall also apply to persons, who have hearing, speech or visual impairments. When issuing procedural documents to such persons in the cases provided for by the law, the availability of such documents in the language or the manner which such persons are able to perceive shall be ensured.

²⁶ Criminal Procedure Law. Adopted 21.04.2005. Para 11. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

It was established from the practitioners questioned during the research that there are no significant issues with provision of interpreter's services currently in Latvia. Probably this is because the majority of legal acts in Latvia are available online to any interested person, including also in English, but mostly English and Russian (except the official language, in which the proceeding takes place) is used for communication during the criminal proceeding. The Criminal Procedure Law determines in which cases verbal translation should be provided, and in which cases it is necessary to translate documents in writing. There is no situation established in Latvia, when the authorities would apply restricted access to translation of procedural materials or verbal communication. If any would be established, it should be considered as disproportional restriction of the rights of a victim and a disciplinary liability could be applied to the official, who would permit such action. Specialists questioned during the research argued that there were no cases in their practice, when a verbal and written translation would have been denied for a victim due to the fact that it unreasonably prolongs the adjudication of the case²⁷.

There are some examples of situations in which an interpreter or translator is required. First, a court shall provide the victim with an interpreter in order to allow him/her to become familiar with the ruling. If a victim who does not know the official language and whose permanent place of residence is in a foreign state has applied a request to receive a written translation of the ruling, the person directing the proceedings shall send a written translation of the abovementioned ruling to the victim²⁸.

Second, if a victim who is not fluent in the official language and whose permanent place of residence is in a foreign state, has applied a request to receive a written translation of the decision on termination of proceedings, the person directing the proceedings shall send a written translation of the abovementioned decision to the victim²⁹.

Finally, the person directing the proceedings shall send a copy of a penal order³⁰ to a victim, and shall inform him/her of his/her rights to familiarise himself/herself with the documents/decisions of the criminal case, as well as to appeal a taken decision within 10 days after receipt of the renotification. If a victim who is not fluent in the official language and whose permanent place of residence is in a foreign state has applied a request to receive a written translation of the penal order, the person directing the proceedings shall send a written translation of the abovementioned order to the victim³¹.

The rights of victims to written and verbal translation on the merits do not differ from the rights of a suspect, convicted person or the accused person. The above mentioned rights differ

27 Criminal Procedure Law. Adopted 21.04.2005. Para 12. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

28 Ibid. Para 321.1. part two.

29 Ibid. Para 392.1. part eight.

30 The Criminal Law. Adopted 01.04.1999. Para 35, part 1. Retrieved from <https://likumi.lv/ta/en/en/id/88966-the-criminal-law>

31 Ibid. Para 4222.

only in one aspect, in cases when assistance of an interpreter is provided during the meeting with a defence counsel to a person, who has the right to defence³². These Cabinet Regulations, adopted in 2013, determine the special rights of persons, who have the right to defence, to an interpreter, when it is necessary to get prepared for interrogation, writing formal complaints and other procedural documents as well as issuing appellate and cassation complaints. The above mentioned procedure is established in order a person could implement his /her right to defence in general.

The second situation is afterwards, when a criminal proceeding is initiated and the victim has been legally recognized as a victim. Then the victim has the rights determined in Criminal Procedure Law, depending on the status of the criminal proceeding – pre-trial investigation, trial before a court of first instance, appellate court or cassation court. During the pre-trial criminal proceeding the victim becomes acquainted with the register of criminal proceedings and he/she has the right to raise objections against the officials indicated there, to submit applications regarding the investigation and other activities, to become acquainted with a decision regarding determination of expert-examination before transferring it for enforcement and submit an application regarding making amendments in it, if the expertise is to be made upon his own application.

After completion of the pre-trial criminal proceeding the victim may receive copies of materials of the criminal case to be forwarded to the court that are directly related to the criminal offence by which a harm has been caused to him or her, if they have not been issued before, or upon the consent of a prosecutor to become acquainted with these materials of a criminal case in presence. In this part of the proceeding a victim has the right to receive written translation of the documents of the criminal proceeding (that refer to him/her).

In order to ensure constant translation services in accordance with the principles of the Directive, law enforcement bodies (police, court, prosecutor's office, prison authorities and probation service) enter into agreements with professional interpreters, who provide written and verbal translation, in a timely manner. Law enforcement bodies assess in which languages the translation is necessary and accordingly contact interpreting services. There have been few complicated cases in the practice, when knowledge of the language, the experts of which are not available in Latvia, was required. However, these are certain cases during the recent ten years and this is not a stable trend. English and Russian language is most often used as the third language of common communication between the law enforcement bodies and victims in Latvia.

32 Procedure According to Which Assistance of an Interpreter is Provided for a Person Having the Right to Defence During the Meeting with a Defence Counsel. Adopted 19.11.2013. Retrieved from <https://likumi.lv/ta/id/262621-kartiba-kada-personai-kurai-ir-tiesibas-uz-aizstavibu-tiksanas-laika-ar-aizstavi-tiek-nodrosinata-tulka-palidziba>

ARTICLE 8 - RIGHT TO ACCESS VICTIM SUPPORT SERVICES

Member States shall ensure that victims have access to confidential victim support services, free of charge, before, during and for an appropriate time after criminal proceedings. Member States shall facilitate the referral of victims, by the competent authority that received the complaint to victim support services. Member States shall take measures to establish specialist support services in addition to, or as an integrated part of, general victim support services. Member States shall ensure that access to any victim support service is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

The Latvian model for support of victims currently can be called as a one-stop agency, implemented by the non-governmental organization Skalbes³³, which provides for the **support phone line for victims of crimes** 16006 and the portal³⁴www.cietusajiem.lv. The non-governmental organization operates on the basis of the delegation and funding of the State³⁵. Since 1 January 2016 the trust phone works in the day-and-night mode. However, psychological support may only be requested through this line from 9:00 – 17:00 and in presence.

A victim of a crime, has the possibility to turn to law enforcement bodies, including by using online forms, offered by the site, as well as call to the crisis phone. The support phone line was selected as a service form, because it includes flexible service, it is available immediately, it is free of charge, anonymous, the service is provided by professional well-prepared consultants, who listen to their customers without condemnation and reprimands.

At the same time specialists of the support phone have a broad network of cooperation partners, gathered information about specialists across the whole territory of the state, therefore there is a possibility to provide an advice to victims regarding of the existence of victim support services close to their place of residence. The support phone line professionals ensure the following functions: emotional support, psychological support after traumatic experience, explanation on

³³ Skalbes. Retrieved <http://www.skalbes.lv/en/> <http://www.skalbes.lv/en/>

³⁴ Cietusajiem.lv. Retrieved from <http://www.cietusajiem.lv/en/> <http://www.cietusajiem.lv/en/>

³⁵ Public funding is provided to “Skalbes” in the form of a regular grant to maintain a victim support phone to other organizations within individual projects. The total amount varies annually.

victims’ rights and information about the possibility to resort to victim support services in other authorities.

However, there are also some limitations in the format the phone line currently adopts, because professionals do not accept complaints from victims regarding criminal offences; do not meet with the victims personally and do not offer legal services. Professionals working in the support phone line most often recommend authorities or special services where it is possible for victims to reach for specialized help. The most often recommended authorities are police, social service, the State Inspectorate for the Protection of Children’s Rights, the State Labour Inspectorate, Legal Aid Administration and crisis centres.

In accordance with the results of analysis of the support phone line for victims conducted by Skalbe, during the recent two years the victims have most often required support after a traumatic experience or while waiting for the results of investigation, encouragement to turn to law enforcement bodies or social service, information on victims’ rights and information about the available victim support (legal, psychological and practical).

In 2016 the support phone line for victims had received 1568 calls, but in 2017 it received 1630 calls³⁶. Among other reasons, people have turned to the support phone service due to situations of domestic violence, violence of economic nature and fraud, thefts, repeated threat of violence, severe bodily injuries, hooliganism, road traffic accidents, robberies, cases of corruption and rape. These are the most common situations.

In 2017 the non-governmental organization Skalbes has introduced also **online chat**, where customers may ask questions and receive answers immediately; 152 persons have received support services through the chat during the first two years.

The State bears responsibility for operation of the support phone line for victims, proposing requirements for professionals for the support line compliant with legal norms and requirements of the Directive of victims, as well as regularly controlling the quality of services (it is performed by the Legal Aid Administration, on the basis of a contract). At the same time professionals of the phone line have an obligation to regularly raise their qualification and to inform the public about the existence of the phone line through campaigns. Thus, during the recent two years the representatives of the non-governmental organization Skalbes have participated in conferences organized by *Victim Support Europe* – in Netherlands in 2016, and in Ireland in 2017; and last year have organized the broad cross-institutional training “Legal protection of victims of violence, legal acts and application thereof in the practice of courts and police”. At the same time popularization measures of the phone were performed by using various advertisement environments (on bus stops, and other public transportation means, advertisements in television channels and radio,

³⁶ The majority of callers were women, namely: in 2016 - 1012 women and 556 men, but in 2017 - 1171 women and 459 men.

publications in media), and informative booklets have been developed in cooperation with police authorities, reaching the general public.

There are **special support services³⁷ for victims of trafficking in human beings and children**, who have suffered from criminal offences, existing at the same time with the above mentioned universal service. Provision of services is coordinated by the Social Integration State Agency. The Agency adopts the decision regarding provision of services or denial to provide services as well as establishes a data base of provided services. Support Services are provided by a service that is registered in the register of social service providers and corresponds with the requirements set by regulatory enactments regarding the social service providers. A course of services for one person is up to 180 calendar days. In addition a person (a victim or witness) may receive five consultations of service provider during two years after the end of the course of services. If a person has been recognised a victim within the scope of criminal proceedings or he/she is assigned the status of a witness, if the relevant person does not wish to be recognised as victim, and it is confirmed by a statement issued by a law enforcement authority, after the end of the course of services the relevant person has the right to receive support in relation to the initiated criminal proceedings – psychosocial assistance (including individual consultations of a lawyer, social worker, psychologist), services of an interpreter, assistance in drawing up legal documents and, if necessary, representation in court, not exceeding 150 hours per year. If the person receives State ensured legal aid, the relevant person has the right to receive consultations of a social worker and psychologist, as well as, if necessary, services of an interpreter in such consultation as support in accordance with this Regulation³⁸.

Regulation “Procedures for Providing Social Rehabilitation Services for Adult Persons who are Victims of Violence or who have Committed Violence” determines the types, scope and content of social rehabilitation services funded from the State budget, provided to the adult persons who are victims of violence and who have committed violence, provisions for receipt of services and procedure for granting the services. Adult persons who are victims of violence (either physical, sexual, economic or emotional acts of violence, or physical or sexual threatened violence, or violent control) shall be provided with services with the following objective: to provide psychosocial assistance; to assess the threat and to plan security measures; to motivate the person to recover or enhance his/her social functioning capabilities (a person’s limited capability to work, take care of himself/herself, integration into the society); and to strengthen or recover the person’s social functioning capabilities. The service shall be provided as close as possible to the person’s place of residence, except when the person has expressed a reasoned wish to receive the service in

³⁷ Regulations Regarding the Procedures, by Which Victims of the Trafficking in Human Beings Receive Social Rehabilitation Services, and the Criteria for the Recognition of a Person as a Victim of the Trafficking in Human Beings. Adopted 30.10.2006. Retrieved from <https://likumi.lv/ta/en/en/id/147113-regulations-regarding-the-procedures-by-which-victims-of-the-trafficking-in-human-beings-receive-social-rehabilitation-services-and-the-criteria-for-the-recognition-of-a-person-as-a-victim-of-the-trafficking-in-human-beings>

³⁸ Ibid. Para 4.1.

another administrative territory, or this is necessary due to personal security reasons³⁹. The above mentioned services shall be provided by the social service or service providers specially trained and hired for this service.

The third, State funded service is provided for **children**, who are victims of a criminal offence, exploitation, sexual abuse, violence or any other unlawful, cruel or demeaning act⁴⁰. This State funded programme is implemented by the non-governmental organization, the foundation “Latvian Children’s Fund”⁴¹. If assistance has been provided at a medical treatment institution to a child to whom consequences of probable violence have been detected, the medical treatment institution shall, without delay, notify the police and the social service office of the local government. If the Orphan’s Court has suspicions that a child has suffered from parental abuse, it shall inform the social service office of the local government and send the child, after he/she has received the necessary treatment and medical rehabilitation, to a psychologist or a social worker who shall evaluate and determine whether the child needs social rehabilitation. If there are suspicions that the child has suffered from violence at a childcare institution, educational institution of social correction, or place of imprisonment (hereinafter – institution), the head of the institution, parents, foster family or guardians of the child shall inform the Orphan’s court, social service office of the local government thereof and shall request an opinion of a psychologist or a social worker regarding the abused child. A psychologist or a social worker shall, within 10 days, provide an opinion upon request of the parent or guardian of the abused child, the head of the institution, the foster family, or the Orphan’s Court⁴².

There is different consultation form of specialists, provided by the social service of the local government. In order to receive the consultations, a victim shall turn to the local government on the basis of his/her place of residence for support. The range of available services in local governments differs and it depends on the available funding. This means that a situation may occur, when victims of similar criminal offences receive support services of different scope, content and quality, or not receive them at all, if such a service is not available in the local government. Due to this consideration there were complicated discussions during the adoption of the Directive regarding the need and possibility to establish a single State funded basket of

³⁹ Procedures for Providing Social Rehabilitation Services for Adult Persons who are Victims of Violence or who have Committed Violence. Adopted 23.12.2014. Retrieved from <https://likumi.lv/ta/en/en/id/271251-procedures-for-providing-social-rehabilitation-services-for-adult-persons-who-are-victims-of-violence-or-who-have-committed-violence>

⁴⁰ Procedures for Providing the Necessary Assistance to a Child who has Suffered from Illegal Activities. Adopted 22.12.2009. retrieved from <https://likumi.lv/ta/en/en/id/202912-procedures-for-providing-the-necessary-assistance-to-a-child-who-has-suffered-from-illegal-activities>

⁴¹ Latvia Children’s Fund. Retrieved from <http://www.lbf.lv/enhttp://www.lbf.lv/en>

⁴² The following information shall be indicated in the opinion: whether the child has signs of psychological trauma; the necessary social rehabilitation measures; whether it is preferable to receive social rehabilitation at the place of residence of the child or at the institution, or at a social rehabilitation institution; whether the child needs a social rehabilitation course up to 30 days or a complex social rehabilitation course up to 60 days in a social rehabilitation institution; whether it is necessary that a family member of the child or a person who takes care of the child stays at the social rehabilitation institution together with the child, taking into account the psychological state and age of the child. In accordance with this opinion the support is provided to children of the above mentioned target group.

services for victims of crimes, which should be administered by a State authority. But such a solution was attainable from the perspective of both, local government as well as costs, therefore the solution remained with the above described model with a) a universal contact point (trust phone and website); b) specially established services for children and adults, who have suffered from any kind of violence, including criminal offences of such nature and c) victims of trafficking in human beings.

Regarding quality standards, it is quite complicated to assess the quality performance of the victim support system in the State in general, in particular due to the fact that public surveys are not conducted in order to establish whether the services provided to victims are developed according to their needs.

ARTICLE 9 - SUPPORT FROM VICTIM SUPPORT SERVICES

Victim support services shall, as a minimum, provide: a) information, advice and support relevant to the rights of victims; b) information about or direct referral to any relevant specialist support services in place; c) emotional and psychological support; d) advice relating to financial and practical issues arising from the crimes; e) advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation. Specialist support services shall develop and provide: a) shelters or any other appropriate interim accommodation for victims; b) targeted and integrated support for victims with specific needs such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships.

Victims of crimes may receive different kinds of **social services** at their place of residence or outside of them, namely: care at home, rehabilitation at the place of residence, daily care and social rehabilitation institutions, group apartments (group houses), service apartments, night shelters or asylums, crisis centres or long-term social care and social rehabilitation institutions according to their needs⁴³.

Care at home is provided to persons, who are not able to move due to their health condition. Care may be provided by both a local government paid specialist as well as any of family members. If a person needs support and integration into society, the social service or **social rehabilitation service** provider works in order to socially rehabilitate the victim and implements the individual social rehabilitation plan. Besides, the **daily care** and social rehabilitation institutions provide care and a possibility to get engaged in physical and mental activities for seniors, disabled persons with disabilities of physical nature, persons with mental diseases as well as persons after severe and extended diseases.

Group houses (apartments), halfway houses, service apartment and social rehabilitation centre services are available to persons, who are in need of support and integration into society. In its

⁴³ Law On Social Services and Social Assistance. Adopted 31.10.2002. Chapter III. Retrieved from <https://likumi.lv/ta/en/en/id/68488>

turn, long-term social care and social rehabilitation institutions ensure a dwelling, social care and social rehabilitation of the required level and medical treatment services to the client in case they need them. Long-term care is provided for orphans and children left without care of parents, seniors, who are not able to take care for themselves, as well as persons with different kind of disabilities, if the care of such persons is not possible at home. The listed services are available also to victims of crimes if the harm arising as a result of a criminal offence has caused the above mentioned severe consequences for health.

The relevant services are provided by local government as well as non-governmental sector and public authorities. Services defined in Article 9(1) of the Directive are provided by the union Skalbes, which provides victim support services through the support phone line for victims of crimes 116006, by the authority of the Ministry of Justice - Legal Aid Administration and the State Police (within the framework of the criminal proceeding).

Crisis and asylum centres and provide support services to victims, who require asylums or are in need of a safe place from secondary and repeated victimization, intimidation and revenge risk. Crisis centres are located across the territory of the entire country⁴⁴ and activity thereof is specialized. Namely, there are special crisis centres for children⁴⁵, adults of both genders who have suffered from violence, victims of trafficking in human beings, asylum seekers⁴⁶ among others⁴⁷. Descriptions of activities of such crisis centres and useful contacts are placed on the website, as well as websites of the responsible public authorities. Employees of the support phone for victims as well as police specialists recommend the appropriate type of service during the first contact with the victim. Besides, a victim (and witnesses) of a crime, in case of threat may also receive support within the framework of the witness protection programme⁴⁸.

The number of beds in asylums is not determined by uniform minimum requirements of the national level for the certain number of beds per one inhabitant; it is determined by each local government, in accordance with the need for this service in the particular territory.

Equal quality requirements are proposed for all social service providers, including crisis centres and asylums, in accordance with the type of activity of such services providers⁴⁹. These requirements are approved by the Cabinet of Ministers of the Republic of Latvia and they are in force across the entire territory.

44 Crisis centres. Retrieved from <http://www.cietusajiem.lv/lv/krizes-centri/>

45 Latvian Children's Fund. Retrieved from <http://www.lbf.lv/en>

46 Shelter "Safe House". Retrieved from <http://www.patverums-dm.lv/en/about-us>

47 Thus, for example, the support to victims with special needs, including from sexual abuse, victims of violence from close relations, including support in cases of traumas and consultations are provided in 15 crisis centres in different regions of Latvia, and there is a special advisory institution for women who have suffered from violence "Centre Marta".

48 Special Protection of Persons Law. Adopted 01.10.2005. Retrieved from <https://likumi.lv/ta/en/en/id/109241-special-protection-of-persons-law>

49 Requirements for social service providers. Adopted 13.06.2017. Retrieved from <https://likumi.lv/ta/id/291788-prasibas-socialo-pakalpojumu-sniedzjiem>

ARTICLE 10 - RIGHT TO BE HEARD

Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity.

Rights of the victim during the criminal proceeding are determined by Chapter 6 of Criminal Procedure Law. A victim has broad rights during the whole course of the criminal proceeding, including the possibility to provide testimonies, to submit evidences, and the right to implement their interests until the day of the verdict comes into force. Moreover, a victim, may submit information regarding the physical and moral harm suffered, and the financial loss caused to him/her, and use his/her procedural rights for acquiring compensation. Every victim has the right to protection, including submitting information regarding threats made towards himself/herself or his/her relatives or property to the person directing the proceeding applications. It is the duty of each person directing the proceeding to ensure the respect for rights and interests of a victim, which is being accordingly implemented in practice.

The Latvian practice of application of laws, of course, depends on the professional qualification, personal attitude and abilities of professionals involved in the process. However in general, cases in which the victim is not heard or he/she is denied to submit applications or evidences in a stage of the proceeding are rare. Failure to hear the victim would be contrary to the general principles of the criminal proceeding therefore should be considered as a criminal procedural violation that conflicts with the purpose of finding a fair settlement of the case.

The criminal proceeding provides for the right of the victim to be heard and listened both during the pre-trial criminal proceeding as well as trial of the case in the court of first instance, appellate and cassation court. Thus, it is ensured that the victim receives the following information in a timely manner: the place and time of trial; information on how to raise objections to the composition of a court, certain judge, the person maintaining the state accusation or expert; information on how to participate in the trial; information on how to express his/her opinion about the issue to be discussed; to participate in the direct and verbal examination of each evidence; information on how to submit applications; information on how to speak during court debates and become acquainted with the court judgment and minutes of the court session; information on how to appeal court decisions.

Regarding how the system takes into account a child's age: if during the criminal proceeding the police, the prosecutor or the court has doubts regarding the age of majority of the person, then the person shall be considered as a minor until the day when the majority is proved. The above mentioned means that such a person shall acquire a status of a victim of special protection, having all rights arising from the status. A person until attaining the age of 18 years shall be considered as a minor.

There is a number of informative materials developed in Latvia⁵⁰ and trainings of specialists are organized⁵¹, in order to ensure appropriate treatment to children, who have suffered from crimes, according to their age and maturity. A minor victim or witness is questioned by a person performing investigation activities, who has special knowledge about dealing with a minor during the criminal proceeding. If a person performing investigation activities has not acquired such special knowledge during the criminal proceeding or considers it necessary, a teaching staff or psychologist is called into the questioning of the child. Moreover a minor, who has not attained the age of 14 years, is not warned on the responsibility for refusal to testify and knowingly giving a false testimony. Furthermore if a psychologist indicates to the person directing the proceeding that a psyche of a person, (who has not attained the age of 14 years, or a minor,- who has been a victim of violence, committed by a person,- from whom the victim is financially or otherwise dependent on, or a victim of trafficking in human beings or criminal offence against morality or sexual inviolability), may be harmed by a repeated direct questioning, this may change only through the permit of the investigating judge, but a court decision shall be required for questioning at a court⁵².

50 Child as a victim. Retrieved from http://www.bernskacietusais.lv/lv/nepilngadiga_cietusa_lieicnieka_nopratinasana_nopratinasanas_gaita/

51 Child as a victim or witness. Retrieved from http://www.bernskacietusais.lv/lv/publikacijas/berns_ka_cietusais_vai_lieicnieks/

52 Criminal Procedure Law. Adopted 21.04.2005. Para 151.1, 152, 153. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

ARTICLE 11 - RIGHTS IN THE EVENT OF A DECISION NOT TO PROSECUTE

Member States shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to review of a decision not to prosecute. Where the role of the victim will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. Member States also need to ensure that victims are notified of their right to receive, and that they receive sufficient information to decide whether to request a review.

In Latvia every person who has turned to the police with a complaint regarding a criminal offence, has the right to be informed on the course of review of his/her submission. Such rights are not restricted to any category of inhabitants that may be endangered. If a person has been recognized as a victim in the criminal proceeding, then the victim has the right to dispute various decisions of the person directing the proceedings that may infringe his/her rights, at any stage of implementation of the criminal proceedings.

The rights of a victim to dispute decisions and to be informed about the course of the proceeding are determined in Criminal Procedure Law of Latvia⁵³ and, according to this regulation, it is binding to all persons involved in the proceedings. One of the main rights of a victim is the right to complaint against a procedural decision or action of the official authorised for conducting of a criminal proceeding, but only in certain cases, within the determined time periods and in accordance with the procedures.

During the pre-trial phase, the victim may submit applications regarding the investigation activities, and become acquainted with a decision regarding determination of expert-examination before transferring it for enforcement and submit an application regarding making amendments in it, if the expertise is to be made upon his own application. Besides, the victim may make a petition to the investigation judge to introduce him/her with materials of special investigation activities that are not available in the materials of the criminal proceeding. For the exercise of

53 Criminal Procedure Law. Adopted 21.04.2005. Para 97.1, 98, 99, 100, 101, 373, 392.1, 422. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

these rights a victim has the right to receive written translation of the documents free of charge.

When a case reaches the court of first instance, the rights of the victim change according to the specifics of the proceeding, namely, in this moment the victim has the rights to raise an objection against the composition of a court, particular judge, the person maintaining the public accusation (prosecutor) and expert, participating in the case as well as to submit applications to the court. In a court sitting of the appellate court a victim has the same rights as in a court of first instance, as well as the right to maintain and justify his/her complaint, or withdraw such complaint. If a decision has been taken to examine the case in a written procedure, a victim has the right to submit a recusation to the composition of the court, or an individual judge, as well as submit objections against trial of the case in a written procedure. A victim has the right to receive an adjudication of a court of appeals on the day specified by the court, and to submit a cassation complaint.

If a judgment of the appellate court is appealed in the part regarding a criminal offence with which harm was caused to a victim, a person directing the proceedings shall send copies of received cassation complaints to the victim, and a cassation court shall notify regarding the time, place, and procedures for the examination of the complaints. If the complaint is adjudicated by a cassation court by a written procedure, the victim may raise an objection against the composition of a court or particular judge, to submit written objections against complaints of other persons, to make a reasoned petition regarding adjudication of the complaint by a verbal proceeding in an open court sitting in his or her presence.

If the procedurally authorised official establishes during the investigation phase, that there are no grounds for initiation of the criminal proceedings, he/she shall make a decision and shall notify the person, who submitted information about commitment of a possible criminal offence (victim) about that. The investigator, with a consent of a prosecutor or a prosecutor, may refuse to initiate a criminal proceeding if a criminal offence has been committed but the consequential harm, does not justify a criminal punishment. A victim may dispute this decision close to a prosecutor within a time period of 10 days after receipt of the notice, but if a prosecutor has adopted a decision, the victim shall dispute it to the higher level prosecutor.

Procedure for disputing shall be explained in the letter, which the relevant official (investigator, prosecutor) sends to the victim in order to inform about the decision. An official has an obligation to provide such explanation to the victim. A prosecutor shall review the complaint regarding refusal to initiate a criminal proceedings within a time period of 10 days from the day of receipt thereof. If the victim has failed to submit the complaint in the official language, then the above mentioned time period shall be counted from the day, when the victim has received translation. In exceptional cases, when additional time is required for examination of the complaint, review of it shall be acceptable within a time period of 30 days by notifying the person lodging complaint.

When reviewing the complaint regarding the decision to refuse to initiate a criminal proceeding, a prosecutor may cancel or amend the disputed decision in full or in a part according to the interests of the victim. The decision of the prosecutor, pursuant to which the complaint is denied or satisfied, is not subject to appeal. Information is sent regarding results of settlement of the complaint and explanations are provided to the victim, who has submitted the complaint.

In case circumstances are established during the pre-trial phase, which do not allow to continue with the criminal proceedings or that may serve as a ground for release of a person from criminal liability, or if the guilt of the suspect or the accused is not proved and it is not possible to collect additional evidences, the person directing the proceeding adopts a decision regarding termination of a criminal proceeding or a part thereof. A victim is immediately informed about the decision adopted. A copy of the decision regarding the termination of the criminal proceeding shall be immediately sent to the supervising prosecutor, but a copy of the decision regarding termination of the criminal proceeding is sent to the victim.

The rights to become acquainted with materials of the criminal case are explained to the victim within a time period of 10 days from the day of receipt of the decision. If a criminal proceeding is terminated in any part thereof, the victim shall have the right to become acquainted with the materials of the criminal case that directly refer to him/her. If a prosecutor applies a penal order to the accused and the case does not reach a court, then the prosecutor sends to the victim a copy of a penal order, and shall inform such victim regarding his/her rights to familiarise himself/herself with the materials of the criminal case, as well as to appeal the decision within 10 days after receipt of the report. In cases, when a victim does not command the official (Latvian) language and who permanently lives abroad, the person directing the proceeding sends to the victim a written translation of the above mentioned decision.

Although the survey and gathering information about the needs of victims has not been performed in Latvia since 2012, it is possible to conclude from interviews with specialists that victims have sufficiently broad information available regarding their rights in the criminal proceedings and on how to implement their rights. Information system of courts in Latvia does not separately collect information about procedural complaints submitted by victims, but it collects information about appellations of decisions of courts of first instance and appellate courts in criminal cases in general⁵⁴.

54 Statistical data. Retrieved from https://www.ta.gov.lv/LV/publikacijas_un_statistika_1509/statistikas_dati_58 https://www.ta.gov.lv/LV/publikacijas_un_statistika_1509/statistikas_dati_58

ARTICLE 12 - RIGHT TO SAFEGUARDS IN THE CONTEXT OF RESTORATIVE JUSTICE SERVICES

Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Member States shall facilitate the referral of cases, as appropriate to restorative justice services.

Criminal Procedure Law stipulates that a victim has the right to reach an agreement with a person who has inflicted harm to him/her, as well as to receive information regarding implementation of the agreement and its consequences⁵⁵. The resort to mediation is a right of the victim, not an obligation, and it is possible only pursuant to the will of the victim and provided that the suspect or accused admits his/her guilt when committing a criminal offence.

Criminal mediation is organized by the State Probation Service since 2005. The person directing the proceedings (police, prosecutor or court), upon establishing that a settlement is possible and that it is useful to involve a mediator, informs the State Probation Service. But the settlement may be performed also without participation of the State Probation specialist, since it may be performed during the court sitting and notification to the court may be made verbally. The court records this in the minutes of the trial. If the mediation is performed by a specially trained mediator of the State Probation Service, then the settlement agreement is signed by both parties — a victim and a person, who has the right to defence, in the presence of the person directing the proceeding or a mediator trained by the State Probation Service, who shall confirm signatures of the parties.

A victim and a suspect (or accused) may submit to the person directing the proceeding a notarial certified settlement. The State Probation Service provides a possibility to a victim and a person, who has committed a criminal offence, to voluntarily engage in the settlement proceeding, in order to minimise the harm inflicted by a criminal offence.

In order to achieve this purpose, the State Probation Service trains volunteers; informs the person directing the proceeding regarding purposes of the settlement proceeding and possibilities of

⁵⁵ Criminal Procedure Law. Adopted 21.04.2005. Para 97.1. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

organization and management thereof; provides information to the public about the purposes of the settlement proceeding and possibilities of organization and management thereof.

The mediation organized by the State Probation Service in Latvia is a carefully introduced and analysed method⁵⁶, therefore it is considered as the friendliest tool of recovering justice to the victim. The settlement implemented by the State Probation Service is organized in accordance with the Cabinet Regulation, the updated wording of which was approved in June of the current year⁵⁷.

The Regulation determines the procedure according to which the State Probation Service shall organize and lead the settlement proceeding for mediation, upon;

- the request of the person directing the proceedings,
- proposal of a judge regarding application of educational compulsory measure for a minor,
- the content of the submission of a victim and a person, who has committed a criminal offence, or
- the submission of legal representative of a victim and a person, who has committed a criminal offence, if the victim or the accused, is a minor person or a guardianship has been established over the accused.

The settlement proceeding between the accused and a victim is possible only when the accused admits of committing the criminal offence, admits facts of the case and the involved parties confirm in writing on voluntary consent to their participation in the settlement proceeding. If the services of an interpreter are required during organization and management of the settlement proceeding, the State Probation Service requests for an interpreter and covers expenses of translation.

If the legal representative of the victim or mediator considers that participation of the victim during the settlement proceeding may harm the mental health or safety of the victim, then only the legal representative of the victim shall participate in the settlement proceeding. In cases, where an offender has been prohibited to approach the victim, the probation specialist asks the person directing the proceeding for a permit for organization of the settlement meeting. A mediator may not sign the settlement when there are grounds to consider that it has been achieved by using threat, violence, blackmail or other illegal activities. In case of failure to sign the settlement it shall be considered that the settlement between the involved parties (a victim

⁵⁶ Judins, A. (2005). Izlīgums Latvijas krimināltiesībās (Settlement in the criminal law of Latvia). Riga: PROVIDUS. Retrieved from http://providus.lv/article_files/1999/original/izligums.pdf?1342697406

⁵⁷ Procedure According to Which the State Probation Service Organizes and Leads the Settlement Proceeding (draft in Latvian). https://www.tm.gov.lv/files/11_YWFhLzEvTUtBbm90XzI5MTIxN19pemxpZ3Vtcy5kb2N4/aaa/1/MKANot_291217_izligums.docx

and an offender) has not been reached. During the preparation of the settlement procedure all involved persons are warned about the confidentiality conditions.

Between 2010 and 2012 the State Probation Service conducted a study regarding satisfaction of participants of settlement. It was established in almost 80% of cases the parties of the settlement considered that it had been very useful to meet the other party during the settlement. Moreover, 80% would recommend to other people to get engaged in the settlement, because advantages from the settlement are essential for both parties. The identified key advantages of this settlement for victims was the possibility to meet the other party, to settle the arising conflict faster than through a court proceeding, to be in a safe atmosphere and to receive support and understanding of a professional mediator. It should be noted that offenders considered the same also as their advantages. Not only the parties themselves, a victim and an offender, but the public in general identify benefits from the settlement⁵⁸.

58 Puzāne-Kaļina, S. (2013). Cietušajam izlīgumā nav jācieš (A victim shall not suffer during settlement). Retrieved from <http://providus.lv/article/cietusajam-izliguma-nav-jacies>

ARTICLE 13 - RIGHT TO LEGAL AID

Member States shall ensure that victims have access to legal aid, where they have the status of parties to criminal proceedings.

In accordance with Criminal Procedure Law⁵⁹, victims of criminal offences have the right to appoint an advocate for protection of their interests. But the victim has to cover expenses of the advocate by him/herself. Services of the advocate for the victim are paid by the State in exceptional cases present in the common procedure covered by Criminal Procedure Law; this procedure is prescribed by the State Ensured Legal Aid Law.⁶⁰

In Latvia, certain people have the right to legal aid:

- Citizens of Latvia;
- non-citizens of Latvia, who lawfully stay in the Republic of Latvia;
- stateless persons, who lawfully stay in the Republic of Latvia;
- citizens of other countries of the European Union, who lawfully stay in the Republic of Latvia;
- foreigners, including a refugee and a person to whom an alternative status has been granted in Latvia, if they lawfully stay in the country;
- asylum seekers and other persons.

These persons have the right to State funded legal aid if they have been recognized as persons with low income or poor persons in accordance with the procedure prescribed by legal acts, or the persons have suddenly appeared in the situation and financial position that prohibits them to ensure their legal protection, for example due to natural disasters, force majeure or due to any other circumstances not depending from the person.

59 Criminal Procedure Law. Adopted 21.04.2005. Para 108, 97.1, part one.

Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

60 State Ensured Legal Aid Law. Adopted 15.02.2005. Retrieved from <https://likumi.lv/ta/en/en/id/104831-state-ensured-legal-aid-law>

In cases, when a victim is a minor person, there are several exceptions, namely: provision of legal aid for a victim of minor age and representative of the victim of minor age shall be mandatory in the criminal proceeding regarding a criminal offence in relation to violence, caused by a person of whom the victim of minor age financially (or for other motive) depends on. Moreover, the child victim also has the right to access State funded advocate services if a criminal offence against morality or sexual offence was committed against him/her. If a minor victim or his/her representative has not entered into an agreement with an advocate regarding provision of legal assistance, then the person directing the proceedings shall make a decision regarding appointment of an advocate. In such a case payment to the advocate for the provision of the State funded legal aid shall be covered from the means of the State budget.

When assessing the situation in general, there are grounds to consider that legal aid is available to all categories of victims, including the cases, when a victim cannot afford to cover expenses related to protection of his/her interests during the criminal proceeding himself. However, it should be mentioned that difficulties may appear in practice to prove the status of a low-income or poor person. Granting of such status is not easy and do not provide equal provisions for all persons. For example, a person is poor if the average income per each family member per month (during the last three months) does not exceed EUR 128.06, but the level of income for granting of a low-income status is determined by each local government at its discretion. Laws do not prescribe how it should be determined. That means that in Latvia a low-income person may be a person with income 140 euros per month, but in another local government it may also be an inhabitant with the income of 360 euros per month. Also three months, in particular in the case of a criminal proceeding, is a sufficiently long period of time, when a situation may appear in practice, when a victim actually is not able to hire an advocate at once and is not able to protect his/her rights.

In this area it is necessary to continue improvement of legal acts in Latvia and accordingly develop different practices. Such situation was already established in 2013 and it was reflected in the study on Victim's rights to legal aid in the criminal proceedings in Latvia⁶¹. At the same time it was indicated in the study that the lack of balance is to be observed between the scope of rights of a victim and a suspect (accused) to the legal aid.

61 Litvins, G. (2013). Victim's rights to legal aid in the criminal proceedings in Latvia. Riga: PROVIDUS. Pages 11-12. Retrieved from http://providus.lv/upload_file/Publikacijas/Kriminalt/Report_Latvia.pdf http://providus.lv/upload_file/Publikacijas/Kriminalt/Report_Latvia.pdf

ARTICLE 14 - RIGHT TO REIMBURSEMENT OF EXPENSES

Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system.

Victims have the right to reimbursement of procedural expenses, in order to cover travel costs in relation to arrival to the place of performance of procedural activity and return to the place of residence, and a price for accommodation. The average labour payment for the time, during which they did not perform their direct work duties due to participation in the procedural activities, is paid to victims. Procedure for reimbursement of expenses to different participants of the criminal proceedings is strictly determined by regulations issued by the Cabinet⁶², determining the time periods for reimbursement of expenses. Interviews with specialists and surveys carried out within the framework of the study showed that procedural expenses are covered in accordance with the procedure prescribed by legal acts and there were no significant issues established in practice.

62 Regulation on the procedure and amount for compensation of criminal procedure expenses. Adopted 04.10.2005. Retrieved from <https://likumi.lv/ta/id/118719-noteikumi-par-kriminalprocesualo-izdevumu-atlidzinasanas-kartibu-un-apmeru>

ARTICLE 15 - RIGHT TO THE RETURN OF PROPERTY

Member States shall ensure that recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings.

In accordance with Criminal Procedure Law⁶³, the property shall be returned to the victim on the basis of ownership by a decision of a person directing the proceedings or court after storage of such property is no longer necessary for achievement of the purpose of criminal proceedings. The way of acting with the property that the owner or legal possessor has not removed shall take place in the same order as with the property for which the arrest was cancelled during the criminal proceeding.

There were no studies performed in Latvia in order to establish the average period of time in which property is returned to the victim. The duration of the period depends from the duration of the investigation proceeding as well as it is affected by the total duration of the criminal proceeding. Criminal Procedure Law stipulates that a criminal proceeding shall be terminated within a reasonable period of time, namely, without unjustified delay. However, in practice the duration of the proceedings is determined by several circumstances. Hence, its duration, may differ according to the complexity of the case. The average duration of trial of criminal cases by courts of first instance is approximately 9 months⁶⁴, but the time periods for restriction of rights of the suspected or accused person within the framework of the criminal proceeding is from 6 to 22 months, depending from severity of the offence. Besides, it should be taken into account that these numbers do not include trial of a case by appellate and cassation courts. On the basis of this, it is possible to conclude that a victim may implement his/her right to receive the property for up to at least 2.5 years or longer.

63 Criminal Procedure Law. Adopted 21.04.2005. Para 357, 360.

Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

64 Case law on the right to completion of a criminal proceeding within a reasonable period of time and termination of a punishment, if the right to completion of a criminal proceeding within a reasonable term has been complied with. (2013). Riga: Department of Criminal Cases of the Senate of the Supreme Court of the Republic of Latvia. Retrieved from http://at.gov.lv/files/uploads/files/6_Judikatura/Tiesu_prakses_apkopojumi/sapratigi%20termini.doc

ARTICLE 16 - RIGHT TO DECISION ON COMPENSATION FROM THE OFFENDER IN THE COURSE OF CRIMINAL PROCEEDINGS

Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.

Taking into account the moral injury, physical suffering, and financial loss resulting from a criminal offence, a victim has the opportunity to request and receive moral and financial compensation⁶⁵. Compensation is payment (sum) determined in monetary way that the accused pays to the victim as a satisfaction for harm and losses suffered. An offender may pay to the victim on a voluntary compensation or on the basis of court judgment.

If a victim considers that all harm caused is not compensated by the established compensation in the criminal proceeding, he/she shall have the right to claim for compensation thereof in accordance with the procedure determined in the Civil Procedure Law⁶⁶. When determining the amount of compensation, the compensation received during the criminal proceeding shall be taken into account. In certain cases a victim has the right to the State funded compensation, namely: if the death of a person has occurred as a result of a criminal offence; severe or moderate bodily injuries have been caused to the victim; morality or sexual inviolability of the person has been violated; the victim is a victim of trafficking in human beings; the victim has been infected with human immunodeficiency virus, Hepatitis B or C⁶⁷.

The State compensation shall be paid to the victim within a time period of one month from the day of receipt of submission of the victim, but the victim has the right to claim compensation

65 Criminal Procedure Law. Adopted 21.04.2005. Para 22, 97, 351, 377, 420.

Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

66 Civil Procedure Law. Adopted 14.10.1998. Retrieved from <https://likumi.lv/ta/en/en/id/50500-civil-procedure-law>

67 On State Compensation to Victims. Adopted 18.05.2006. Para 3. Retrieved from <https://likumi.lv/ta/en/en/id/136683-on-state-compensation-to-victims>

from the State from the moment, when the person is legally recognized as a victim.

The duty of the person directing the proceeding (police, prosecutor and court) is to inform the victim regarding the right to receive the State compensation. The maximum amount of the State compensation to be paid out to the victim shall be five minimum monthly wages laid down in the Republic of Latvia (in 2017 it was EUR 1900)⁶⁸. The State shall recover the compensation pursuant to recourse procedure from the offender. In cases, when a settlement of the victim and offender has been in the case, the payment term of the compensation shall be specified in the settlement document, but if the compensation is determined pursuant to the court decision, it shall be recovered by a sworn bailiff in favour of the victim.

For the amount of compensation for the moral detriment, a court shall assess the application of the victim and take into account: 1) severity of a criminal offence and nature of the crime; 2) physical suffering, permanent mutilations and loss of work abilities; 3) depth and publicity of moral harm; 4) mental injuries⁶⁹. The period of enforcement of the decision is closely related to the financial status of the offender. It was established during the interviews carried out within the framework of the study that there is still a big risk existing in practice that the financial status of an offender is an obstacle in order to compensate any harm to the victim.

ARTICLE 17 - RIGHTS OF VICTIMS RESIDENT IN ANOTHER MEMBER STATE

Member States shall ensure that authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed. The authorities of the Member State where the criminal offence was committed shall be in a position:

a) to take a statement immediately after the complaint is made to the competent authority; b) to have recourse to video conferencing and telephone conference calls for the purpose of hearing victims who are resident abroad.

Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.

Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.

In Latvia all persons, regardless of their nationality have the right to protection from criminal offences. Therefore police has an obligation to review all information that indicates on the commitment of a possible criminal offence and to commence a criminal proceeding as long as the reason and ground determined in the law is established or to refuse to commence a criminal proceeding and in both cases to inform the victim.

⁶⁸ Performance results for the state compensation to victims in 2017. Retrieved from http://jpa.gov.lv/uploads/filedir/parskats_vkc_20162017_1_gads_majaslapai.pdf http://jpa.gov.lv/uploads/filedir/parskats_vkc_20162017_1_gads_majaslapai.pdf

⁶⁹ Liholaja, V. (2011). Tiesu prakse par morālā kaitējuma kompensāciju kriminālprocesā (Case law regarding compensation of a moral harm during the criminal proceeding). Riga: Supreme Court of the Republic of Latvia. Retrieved from http://www.at.gov.lv/files/uploads/files/docs/petijumi/tiesu%20prakse%20moralais%20kaitejums_an.doc

In case the victim is located in another European country (not in Latvia), the person directing the proceeding has the right to use technical communication means for performance of procedural activities⁷⁰. Victims from across the border, from the perspective of both the legal as well as practical framework, have the same rights as any inhabitant of Latvia. Besides, if the victim is a citizen of another Member State of the European Union, translation of all procedural documents shall be provided to him during both pre-trial investigation as well as the trial phase. Expenses in relation to arrival of the person to the court (accommodation expenses) shall be covered.

Regarding **State compensation** victims across the border shall receive such compensation upon two situations: in the first case, if harm has been caused to the victim as a result of a criminal offence committed in the territory of Latvia. In such a case the Legal Aid Administration of the Ministry of Justice adopts a decision regarding request of a person permanently living in another Member State to pay out a compensation for harm that has been incurred as a result of a criminal offence committed in the territory of Latvia. The above mentioned request shall be submitted in Latvian or English and it shall be reviewed in accordance with the procedure determined in the Law on State Compensation to Victims.

In the second case, a harm was inflicted upon the victim as a result of a criminal offence committed in the territory of another Member State against the victim, who permanently lives in the territory of Latvia. In such situation, the victim, shall have the right to directly or through the Legal Aid Administration submit a request for State compensation to the competent authority of the relevant Member State. Legal Aid Administration shall prepare a request for the State compensation in accordance with the request for compensation determined by the particular Member State and shall send together with other necessary documents to the competent authority of the relevant Member State, which shall assess the relevant request in accordance with regulatory enactments being in force in that country.

If a person, who is a national of Latvia, becomes a victim of a criminal offence in another European country, victim support services shall be provided to the victim by both the embassy of Latvia (for example, return to the country of origin) as well as by the Legal Aid Administration after return to Latvia.

In general, the treatment it is similar in cases when harm has been inflicted upon a national of another Member State by a criminal offender in Latvia. Deadlines for decision making, support and other procedures do not differ.

⁷⁰ Criminal Procedure Law. Adopted 21.04.2005. Para 12, 29, 140, 369, 371, 369, 370, 371, 388. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

Information to victims, who are not citizens of the Republic of Latvia, about their rights is available in English, as well as is provided in the language the victims are able to communicate. In the same way, through an interpreter, their rights are explained to the victims. The majority of legal acts in the Republic of Latvia is available in English (<https://likumi.lv/about.php>), as well as information about the types, how victims can implement their rights is available on the website of the Legal Aid Administration www.jpa.gov.lv and www.cietusajiem.lv.

Latvia has a close cross-border cooperation with Estonia and Lithuania, as well as with those countries, where nationals of Latvia mostly stay, such as United Kingdom, Ireland, Scotland, Finland, Sweden, and Norway⁷¹.

⁷¹ The State Police project "Simplification of the investigation of less serious crimes with a view to balancing the public danger of the crime, the damage caused and the resources spent on investigations", which has identified the practice of Latvia, Estonia, Lithuania, Germany, Finland, Sweden, and Romania in the investigation of criminal proceedings, including a series of conclusions, how to work more effectively with the victim, which also meets the requirement of Article 20 (b) of the Directive, so that the number of interviews with the victim is as low as possible and only if they are needed in a criminal investigation. Retrieved from http://www.vp.gov.lv/faili/sadalas/policija_msn_lat_2015.pdf

ARTICLE 18 - RIGHT TO PROTECTION

Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

Persons, who are recognized as victims in the criminal proceeding, have the right to **special procedural protection**. Special procedural protection⁷² is a complex security measure for protection of victims, witnesses and other persons, who testify or have testified in the criminal proceeding regarding severe or particularly severe crimes, as well as a minor, who testifies regarding criminal offences against morality and sexual inviolability or cruelty and violence, if there is a threat that it may leave an impact to life, health and other lawful interests of the above mentioned person. Special procedural protection shall be applied by any person directing the proceedings (police, prosecutor, judge), on the basis of the submission of a victim. The relevant person directing the proceeding shall make a decision on this regard without delay or within a time period of ten days after receipt of the submission of a victim (witness), in accordance with actual security conditions. Prosecutors general take a decision regarding determination of the special procedural protection after becoming acquainted with the complaint, after a proposal of the person directing the proceedings, if necessary, after proposal of the victim's representative or defence counsel. A court may also decide on this at its own initiative, if the need has emerged during the process of the trial and the person to be protected has agreed with that.

After making this decision, the person directing the proceeding shall introduce the person to be protected with the decision made, explaining the right to appeal the decision if the person so wishes, as well as rights and obligations of the person to be protected. The person directing the proceedings also informs the person to be protected, whose personal identity data needs to be substituted with a pseudonym, regarding the use thereof of this pseudonym in procedural documents and the fact that responsibility, when acting with a pseudonym, is the same as when

⁷² Criminal Procedure Law. Adopted 21.04.2005. Chapter 17. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

acting with his/her original identity details. If the special procedural protection is applied to the victim, then the fact shall be taken into account during further investigation of the criminal case as well as during trial of the case before a court.

The proceeding above mentioned, is determined by the Special Protection of Persons Law⁷³. Special protection shall be performed by special protection authorities, namely: a specially authorised division of the State Police; a specially authorised department of the Latvian Prisons Administration as well as other persons performing investigative operations, if, in accordance with the instructions of the Prosecutor General, it is necessary to ensure particular interests of special protection.

In order to provide special protection to a victim (witness), the following measures shall be performed according to the situation:

- a security guard shall be appointed for the person to be protected;
- security against unsanctioned wiretapping of the conversations shall be established,
- the securing against unsanctioned control of the victims correspondence;
- the movement of the person is to be protected to other unknown (confidential) residential premises;
- the issuance of a passport and other documents with different personal identity data;
- the change of the permanent residence and place of work of the person to be protected;
- the protection and non-issuance from State information systems of the data of the person to be protected;
- the transfer of the person to be protected to another state in accordance with international agreements or an agreement with a certain State.
- If necessary, insurance of the property of the person to be protected;
- and complete change of identity of the person to be protected may be performed.

If the nature of threat so determines, the protection may be extended to the family members of the endangered person.

⁷³ Special Protection of Persons Law. Adopted 19.05.2005. Retrieved from <https://likumi.lv/ta/en/en/id/109241-special-protection-of-persons-law>

Special protection institutions may cooperate with the protection institutions of other countries, on the basis of the concluded international agreements or certain agreements. The professional operation of the institution is funded from the means of the State budget.

It is also possible to protect the victim in the criminal proceeding by adopting certain security measures that are applied to the suspect or accused, namely:

- prohibition from approaching a specific person or location;
- prohibition from accepting a specific employment;
- residence in a specific place;
- placement under police supervision;
- house arrest or detention.

Security measures are applied by the person directing the proceeding, but if the security measure is related to house arrest and detention, it is applied by the investigative judge.

ARTICLE 19 - RIGHT TO AVOID CONTACT BETWEEN VICTIM AND OFFENDER

(1) Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.

(2) Member States shall ensure that new court premises have separate waiting areas for victims.

During the course of transposition of the Directive into the legal norms of Criminal Procedure Law ⁷⁴ a regulation was included stating the contact between victims and their relatives with the person, who has the right to defence (offender), should be avoided as much as possible during performance of investigation activities, unless such contact is required for achievement of targets of the criminal proceeding. The purpose of the regulation in its terms was to incorporate in the legal act the procedure already existing in practice in which the person directing the proceeding would organize proceedings in a way that the victim and the offender would not meet (for example by not allowing them sit close to each other in the waiting room).

In order to introduce this legal provision in practice, an audit (assessment) of police stations, prosecutors' offices and court premises was conducted and conclusions were made regarding the necessary measures to rearrange logistics of the premises and perform calculations regarding the necessary amount of funding for this purpose. The above mentioned technical changes were made at the law enforcement institutions also in order to introduce the requirements that refer to performance of procedural activities with regards to victims with special protection needs.

As it was specified in the interviews of this study, there are currently situations in which it is complicated to completely ensure that victims do not meet the offender at all (for example, the victim can meet offenders in a small town on the street, in shops or other public places). Provisions are fully implemented with regards to victims with special protection needs. Due to the above mentioned, the work is continued in order to adjust the premises of the law enforcement institutions to the needs of victims as much as possible.

⁷⁴ Criminal Procedure Law. Adopted 21.04.2005. Para 139. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

ARTICLE 20 – RIGHT TO PROTECTION OF VICTIMS DURING CRIMINAL INVESTIGATIONS

Member States shall ensure that during criminal investigations: a) interviews of victims are conducted without unjustified delay; b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation; c) victims may be accompanied by their legal representative and a person of their choice; d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

Criminal Procedure Law⁷⁵ stipulates that the interrogation of a victim is conducted as soon as possible after receipt of information about a criminal offence, but if it is not possible due to health condition of the victim, then right after improvement of the health condition. The **number of interrogations** is kept as minimum as possible. The interrogation of a victim shall be performed, as much as possible, by the same person. Interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of other persons (not related to the particular procedural action). There are not special time periods determined in the Law between the registration of the fact of the criminal offence and the moment of interrogation of a victim, but the general principles of the criminal proceeding and requirements regarding performance of procedural activities within a reasonable period of time refer to this procedure. Also, the Criminal Procedure Law⁷⁶ does not determine the precise number of interviews, however it is stated that in order to prevent secondary victimisation, the number thereof is to be reduced up to the minimum.

A victim has the **right to representation** in the criminal proceeding and it may be implemented in two ways, depending on the fact, whether the victim is an adult or a minor. A victim (adult natural person) may be represented by any adult natural person, to whom a guardianship has not been established, on the basis of authorisation of the victim, which shall be prepared as a notarial certified power of attorney. If the victim has formulated the authorisation verbally, the

⁷⁵ Criminal Procedure Law. Adopted 21.04.2005. Para 151 and 151.1. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

⁷⁶ Ibid.

person directing the proceeding shall prepare it in writing, which shall be signed by the victim and the representative, but the person directing the proceeding shall confirm signatures of the parties. Verbal authorisation given during the court session is recorded in the minutes of the court session. The right of an advocate as a representative to participate in the criminal proceedings are certified by an order.

A minor victim in the criminal proceeding is represented by, at first, the mother, father or a guardian, or one of grandparents, adult brother or adult sister, if the minor has lived together with any of them and the relative has taken care for the minor. In case representation by the above mentioned persons is not possible, then the minor victim may be represented by a representative of an institution for protection of the rights of children or a representative of a non-governmental organization, performing the protection services regarding the rights of children. In case the person directing the proceeding establishes that the above mentioned persons are not able to fully represent the interests of the child, a decision shall be made regarding appointment of an advocate. Relatives of the child also have the right to invite an advocate, expenses of whom are paid by means of the State budget.

Finally, a victim cannot be represented by a person, who is recorded in the register of the criminal proceedings, or by a person, who is directly or indirectly interested in the trial of the case in favour of the person causing the harm.

Victim children are specially protected victims and interrogation thereof shall be conducted in accordance with special requirements. Specially protected victims shall include⁷⁷ minors, persons with mental deficiencies and persons who have suffered from a criminal offence directed against the morality or sexual inviolability of a person, or from human trafficking, or a criminal offence related to violence (including sex crimes).

All **medical examinations** of victims are performed in practice, in order to establish the following conditions: cause of death or severity and nature of bodily injuries; termination of pregnancy or artificial termination thereof; signs indicating commitment of a sex crime; age of a person if it is of importance during the criminal proceeding, but there are no relevant documents; ability of the person to adequately perceive and remember facts important in the case and to testify about them, as well as the ability thereof to independently exercise his/her rights and lawful interests during the criminal proceeding, if reasonable doubts occur and identity of the deceased person, if corpse exhumation is conducted.

The majority of medical examinations are conducted right after the event of the criminal offence. From the practical point of view such examinations in a later stage make it impossible to, for example, determine the severity of bodily injuries.

⁷⁷ Ibid. Para 96.1.

Such procedures are determined in the Law on the Procedures for the Coming into Force and Application of The Criminal Law⁷⁸. The majority of examinations are performed in order to determine the severity or nature of the harm. Therefore the Law determines what is considered as serious, medium and light bodily injuries, in accordance with the diagnosis made close to the victim by a doctor during the course of medical treatment. Such a procedure provides a guarantee that the victim is not subject to repeated or countless medical examinations and they are performed in a professional manner.

There is no doubt that bad quality work of medical practitioners or other specialists is possible to occur, as a result of which it is not possible to exclude the repeated performance of an expert-examination. However, upon evaluating the practice of application of legal norms and opinions of specialists in practice, such cases are not often to be met.

⁷⁸ On the Procedures for the Coming into Force and Application of The Criminal Law. Adopted 15.10.1998. Retrieved from <https://likumi.lv/ta/en/en/id/50539-on-the-procedures-for-the-coming-into-force-and-application-of-the-criminal-law> <https://likumi.lv/ta/en/en/id/50539-on-the-procedures-for-the-coming-into-force-and-application-of-the-criminal-law>

ARTICLE 21 - RIGHT TO PROTECTION OF PRIVACY

Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy of the victim. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.

Right to protection of private life is a fundamental right of victim. Therefore such an obligation is imposed upon any person directing the proceedings, at any moment of implementation of the criminal proceedings.

An official who directs the criminal proceedings, has an obligation to protect the confidentiality of the private life of a person and the commercial confidentiality of a person. Information on such confidentiality shall be disclosed only in the case when it is necessary to clarify conditions that are to be proven.

A natural person has the right to request that a criminal case does not include information on the betrothed, spouse, parents, grandparents, children grandchildren, brothers or sisters of such person, as well as of the person with whom the relevant natural person is living together and with whom he/she has a common (joint) household, if such information is not necessary for the fair regulation of criminal legal relations⁷⁹. Besides, an image of a victim recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of the victim if such publication is not necessary for detection of criminal offenses⁸⁰.

Law On the Press and Other Mass Media determines prohibitions in relation to publishing information that has become known to journalists about the particular criminal proceeding if it is related to personal data, other information about the person or his/her private life. Besides, particularly strict limitations refer to victims with special protection needs, such as a child, namely: it is prohibited to publish information that may serve as grounds for threat against interests of a

⁷⁹ Criminal Procedure Law. Adopted 21.04.2005. Para 12. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law> <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

⁸⁰ Ibid. Para 97.

child victim, as well as an image of a child suffering as a result of an unlawful activity, including information enabling to identify a minor offender or a minor witness⁸¹.

Big attention is paid to cooperation between journalists and investigation authorities, in order to establish a uniform understanding on the application of legal norms and practice⁸². Joint meetings with specialists of the State Police and representatives of media are organized, during which journalists and police officers exchange information and experience, jointly decide on how to act in practice within the framework of professional ethics and law, in order to truly comply with the interests of victims and protect them from secondary victimization⁸³.

ARTICLE 22 - INDIVIDUAL ASSESSMENT OF VICTIMS TO IDENTIFY SPECIFIC PROTECTION NEEDS

Member States shall ensure that victims receive a timely and individual assessment to identify specific protection needs due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

In order to identify a victim's special protection needs, the professional responsible for undertaking the individual assessment takes into account, for example, the personal characteristics of the victim, type and nature of the criminal offence, and circumstances for commitment of a criminal offence. The system, according to which the individual assessment is performed, is not strictly determined in the Directive, but is left at the discretion of each Member State. Due to this, in Latvia this assessment it is performed by officials, in the record-keeping of whom the relevant criminal proceeding.

In order to fulfil the requirements of the Directive, a new term is included in Criminal Procedure Law "Specially protected victim". Therefore the categories of victims are listed in the law, which are considered as specially protected persons, namely: a minor (a person, who has not attained the age of 18 years); a person who is not able to completely exercise his or her procedural rights due to a mental or other health deficiencies; a person who has suffered from a criminal offence directed against the morality or sexual inviolability of a person, or from human trafficking; a person who has suffered from a criminal offence related to violence or threat of violence and committed by a member of the immediate family, former spouse of the victim or by a person with whom the victim was in unregistered spousal relationship or a person with whom the victim has a common (single) household; a person who as a result of a criminal offence has been, possibly, inflicted serious bodily injuries or mental impairments; a person who has suffered from a criminal offence, possibly, committed due to racial, national, ethnic, or religious reasons. The above mentioned list is exhaustive and that means that only persons, who comply with the determined signs, may be recognized as persons to be specially protected.

Like it was indicated by practitioners who work with victims on a daily basis, these are the categories where almost always a person is less protected and more vulnerable. No doubt that there are also other criminal offences, which may leave great impact on the person, making

81 On the Press and Other Mass Media. Adopted 20.12.1990. Para 7. Retrieved from <https://likumi.lv/ta/en/en/id/64879-on-the-press-and-other-mass-media>

82 State Police in cooperation with Providus - regarding support for victims of crimes (video). Retrieved from <http://www.vp.gov.lv/?id=500&vid=2> <http://www.vp.gov.lv/?id=500&vid=2>

83 Professional Ethics and Conduct Code of the State Police Personnel. Retrieved from <http://www.vp.gov.lv/?id=205&said=205&rsd=1>

him/her more vulnerable, but it may also not leave such consequences. Accordingly, the list of categories may not include absolutely all criminal offences, therefore there is also an “open” category provided in addition to the specific categories, in order to provide a possibility for the person directing the proceeding to recognize the victim as a specially protected person also in the case if he/she does not fall within any of the listed categories, but the victim is particularly vulnerable and not protected from repeated threat, intimidation or revenge due to the harm inflicted as a result of a criminal offence. A victim may be recognized as specially protected at the same time with the decision on recognition of a victim, but it may be performed also later.

In order to identify the special needs of victims according to protection, as well as appointing special protection measures, the assessment of victims is performed⁸⁴. Special measures include:

- 1) interrogations are conducted in the premises specially provided for that;
- 2) questioning (interrogation) is performed by specially trained professionals or questioning is performed with a support of such professionals;
- 3) all questionings are performed by one and the same person, unless it does not contravene the needs of the proceeding;
- 4) questioning of a person suffering from sexual violence, gender-based violence and a person suffering from violence from a close relative are always performed by a person of the same gender, if the victim prefers and provided that it does not affect the course of the criminal proceeding, unless the questioning is performed by a public prosecutor or a judge.

With regards to trial of victims of special protection:

- 1) a possibility shall be provided not to meet the offender face to face and a possibility to be heard in the court room through communication technologies;
- 2) measures should be performed in order not to permit unwanted interrogation regarding the private life of a victim that is not related to the criminal offence;

⁸⁴ The system implemented regarding specific categories of victims was selected in order to eliminate the load of the victim as much as possible from visiting various authorities or from submitting statements to many authorities. During the transposition of the Directive another possibility was assessed, allowing for each victim to be individually assessed by a psychologist and it should be evaluated on the basis of the opinion of the psychologist, whether the person is to be specially protected. However, it was decided that such a system would be too complicated and would impose a great administrative burden to both, the authorities as well as the victim. It should be emphasized that the special measures, determined in the Directive are procedural ones and, for example, a psychologist's opinion should not be required for provision of such measures. Besides, a part of the measures provided for in the Directive are ensured in Latvia not only to specially protected victims, but all victims. For example, the provision that interrogation is conducted as soon as possible and the number of interrogations is as limited as possible, and they are conducted only in the case if they are necessary for the interests of the criminal proceeding, refers to all victims.

- 3) there should be a possibility for the case to be tried in a closed court session.

With regards to the procedure how the victim is recognized as specially protected, the regulation was selected that is simplifying the proceeding as much as possible and relieves it from excessive bureaucracy. Namely, it is planned that the information about the status of a specially protected victim is specified in the decision regarding recognition of a person as a victim, and it is not necessary to write two separate decisions (regarding recognition as a victim and regarding recognition as a specially protected victim). Thus, the victim himself/herself is not loaded with receipt of several documents, which may cause lack of understanding for persons without legal knowledge. Exceptional is the case, when circumstances that give the right to a person to obtain a status of a specially protected victim, have become known after the adoption of the decision regarding recognition of a victim. In such a situation the decision regarding determination of a status of a specially protected victim was made as soon as the circumstances have become known to the officials, who work with the particular case.

The rights are provided for the specially protected victim to participate in procedural activities together with a **person of the victim's choice**, unless he/she is a person, against whom a criminal proceeding has been initiated, a detained person, suspect or accused. A person of the victim's choice shall mean a person, whom a victim trusts. The person of the victim's choice, when being present during the procedural activities, in case of need may provide the necessary support not only to the specially protected victim, but also to the person directing the proceeding, for example, when the specially protected person is a person having disabilities.

At the same time the persons of the victim's choice are warned on disclosure of information acquired during the pre-trial criminal proceeding, because a criminal liability may occur in the opposite case. Any person not involved in the criminal proceeding, including all representatives, relatives as well as a person of the victim's choice, are warned on the disclosure of information acquired during the pre-trial criminal proceeding.

ARTICLE 23 - RIGHT TO PROTECTION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS DURING CRIMINAL PROCEEDINGS

(1) Member States shall ensure that victims with specific protection needs may benefit from the measures. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.

(2) During criminal investigations, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment, may benefit from the following measures: a) interviews with the victim being carried out in premises designed or adapted for that purpose; b) interviews with the victim being carried out by or through professionals trained for that purpose; c) all interviews with the victim being conducted by the same persons; d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships being conducted by a person of the same sex as the victim, if the victim so wishes.

(3) During court proceedings, victims with special protection needs shall also have the following measures available: a) measures to avoid visual contact between victims and offenders; b) measures to ensure that the victim may be heard in the courtroom without being present; c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; d) measures allowing a hearing to take place without the presence of the public.

Several measures are offered for the specially protected victim. Namely, a specially protected victim has the right to request that his/her participation and hearing in a court session takes place by using technical means.

Peculiarities of interrogation of the specially protected victim during the pre-trial criminal proceedings are stipulated in Criminal Procedure Law⁸⁵, namely:

- 1) interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of persons not related to the particular procedural action;
- 2) interrogation of a victim is performed by one and the same person as much as possible;
- 3) interrogation of such person who has been recognised as a victim of violence committed by a person upon whom the victim is dependent financially or otherwise, a victim of human trafficking, or a criminal offence directed against morality or sexual inviolability of the person, shall be conducted by a performer of an investigative action of the same gender.

The abovementioned condition need not be conformed to, if the victim himself/herself or his/her representative agrees thereto. If the victim of a criminal offence against morality or sexual inviolability and the person who has the right to defence is of the same gender and if it is requested by the victim or his/her representative, the interrogation shall be performed by a professional of the opposite gender. Deviation from the principle determined in Clause 3 may be acceptable only on the basis of consent of the person⁸⁶. The principle is referred to interrogation and does not affect the call to the place of event. Therefore, after the call those police officers, who will be available at that time, will arrive to the place of event, and if possible, they will perform questioning, inspection of the place of event and other necessary activities, but a performer of an investigation action of the relevant gender will be requested to work with the victim.

With regards to interrogation in a separate room adapted for such purposes it should be mentioned that there are no standards regarding what exactly such a room should be. During the transposition of the Directive and course of development of legal acts the cross-institutional work group agreed that there should definitely be a room, where persons not related to the particular interrogation are not present while victims are interrogated. It should be arranged, ascetic and equipped with necessary tools for the work of the person directing the proceedings. The work group shared the same opinion that it is not acceptable that the victim, who is to be specially

⁸⁵ Criminal Procedure Law. Adopted 21.04.2005. Chapter 151.1. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

⁸⁶ If the situation is explained to the person (for example, a performer of an investigative action of the same gender cannot arrive to the place of event) and the person agrees with deviation from the principle, then it is acceptable. If the person does not agree with that, then the sense of conducting of an investigation action is doubtful due to the fact that the victim does not want to speak with the performer of an investigation action available at that time.

protected, is interrogated in the office of the person directing the proceedings, where any other employee may be present at the same time. However, this happens in the current practice. Besides, there is a possibility that at the same time and in the same room another interrogation or hearing of testimonies is taking place. Such circumstances cannot be considered as appropriate for interrogation of a specially protected victim, because they divert the attention of the person, may cause alarm, distrust or other similar feelings for him/her making the interrogation difficult.

In order to better understand the concept of a room appropriate for interrogation, the work group worked on the calculation of the funding required for arrangement of rooms following the standard of the interrogation room developed by the foundation Centrs Dardedze⁸⁷. The above mentioned standards were not fully taken into account, only the key guidelines were considered.

The work group of specialists practitioners concluded that: none of the rooms being at the disposal of the State Police complied with the above mentioned recommendations during the transposition of the Directive. Although certain steps were made in this direction in 2004, the measures adopted at that time are significantly outdated. Such specially adapted rooms only existed for interrogation of children, and the equipment was simply placed in the service rooms of officials of the Public Order Police (inspectors of cases of minors). The requirement of the Directive to provide each building of the territorial unit, where procedural actions are conducted, with such a room is not a luxury thing, but the minimum basic need, which is currently not existing and which is required not to traumatize the victim and to perform interrogation as soon as possible and at the place appropriate for this purpose⁸⁸.

Interrogation of a victim is conducted as soon as possible and the number of interrogations is kept to a minimum. The interrogation of a victim shall be performed, as much as possible, by the same person. Interrogation of a specially protected victim is performed in a separate room appropriate for such purposes⁸⁹ or without the presence of other persons not related to the particular procedural action. A specially protected victim is entitled to request to participate or be heard during the court sitting by using technical aids. Interrogation of a person, who has been recognized as a victim of violence committed by a person upon whom the victim is dependent, a victim of trafficking in human beings or a criminal offence directed against morality or sexual inviolability of the person, shall be conducted by a professional of the same gender. The abovementioned condition need not be conformed to, if the victim himself/herself or his/her representative wish so.

If the victim of a criminal offence directed against morality or sexual inviolability and the accused

⁸⁷ Criteria for interrogation room. Retrieved from http://www.bernskacietusais.lv/lv/nepilngadiga_cietusa_lieicnieka_nopratinasana/nopratinasanas_telpa/nopratinasanas-telpas-kriteriji-29/

⁸⁸ Initial impact assessment report (annotation) of the draft law "Amendments to the Criminal Procedure Law". Retrieved from <http://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/0/A2A8DD03D30A2D10C2257E580025A39E?OpenDocument>

⁸⁹ Author's note: now is some special interrogation rooms for children, but their number is insufficient. Other victims (adults) with specific protection needs of such rooms is now being formed.

are of the same gender the victim or his/her representative may request for the interrogation to be performed by a performer of an investigative action of the opposite gender.

If a criminal offence against morality or sexual inviolability has been committed, it the trial takes place behind closed doors. Besides, in any other case regarding other types of crime a judge may determine the trial takes place behind closed doors in order to protect the victim and his/her private life.

ARTICLE 24 - RIGHT TO PROTECTION OF CHILD VICTIMS DURING CRIMINAL PROCEEDINGS

Member States shall ensure that where the victim is a child: a) in criminal investigations, all interviews with the child victim may be audio visually recorded; b) in criminal investigations, and proceedings, competent authorities appoint a special representative for child victims where the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family; c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility.

Minors shall always be considered as victims with special protection needs. Even before the transposition of the Directive into the legal framework of Latvia, national law provided for a special attitude towards a child victim.

After the transposition of the Directive, the protection of children was reinforced. Hence, currently, the legal norms of Criminal Procedure Law include additional reference to child victims, determining for example, that questioning or repeated questioning are only admissible in cases when a professional psychologist agrees with⁹⁰. Thus when a testimony is given earlier by child victim, it may be read or played in a court trial, when a psychologist indicates on such need. Before adoption of the Directive the national legal framework provided such a possibility only in relation to the victim of violence committed by a person upon whom the victim is dependent on, a victim of human trafficking or a criminal offence directed against morality or sexual inviolability.

In order to ensure a more complete protection of interests of child victims, it was provided that if harm has been caused to a child person, who does not live, but is staying, in the Republic of Latvia without the presence of parents or persons substituting them, the child victim may be

⁹⁰ Criminal Procedure Law. Adopted 21.04.2005. Para 153. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

represented by the adult person, who is responsible for the minor during his/her stay in the Republic of Latvia. Such regulation was required in order to ensure that the representation of a child victim assumed by an adult, temporary responsible for a child, (for example, a host family, with which the child stays during an exchange programme)⁹¹.

Moreover, if there are doubts regarding the age of victim, if it is not clear if the victim is minor or not, the victim has the rights of a minor victim until establishment of his/her age⁹².

Furthermore, the criminal proceeding related to criminal offences regarding violence committed by a person from whom the victim is dependent, or to criminal offences against morality or sexual inviolability of the person, if the victim is a minor, such case shall have precedence over other criminal proceedings, having an urgent character⁹³. At the same time it is determined that provision of legal aid to a child victim is mandatory in the criminal proceeding regarding a criminal offence in relation to violence, committed by a person, on whom the minor victim depends on, or in relation to a criminal offence against morality or sexual inviolability. In such cases the services of an advocate are paid by the State.

The non-governmental organization Dardedze has conducted a number of significant studies on child, victims involved in criminal proceedings. In one of the studies it was established that "... even a nicely repaired room in the police station is not an environment friendly for a child. The most important is to create the feeling of safety for a child victim, but at the [police] station we make him or her feel like a criminal and intensify even more the negative experience"⁹⁴. In order to solve the issue, the regular and in-depth trainings of police officers, public prosecutors and judges are conducted. Besides the project for establishment of the Children Home⁹⁵, that creates a safe environment for performance of procedural actions with children, who have suffered from criminal offences, has been successfully commenced and is being implemented.

Finally, the non-governmental organization Latvian Children Fund gives significant contribution for support of child victims, having established safe rooms, equipped with the newest technical equipment for questioning children in several crisis centres across the entire Latvian territory. The legal framework for protection of children victims of crimes, is sufficient and is in compliance with the requirements of the Directive, but there is still a lot to be invested in practice in order to create uniform good practices across the whole territory of the country.

⁹¹ Ibid. Para 104.

⁹² Ibid. Para 97.

⁹³ Ibid. Para 14.

⁹⁴ Atklāj būtiskas nepilnības cietušu bērnu nopratināšanas jomā (Significant shortages are established in the area of interrogation of children). Retrieved from <http://www.bernskacietusais.lv/lv/aktualitates/atklaj-butiskas-nepilnibas-cietusu-bernu-nopratinasanas-joma-1065/>

⁹⁵ Ekspertu padomes tikšanās (Meetings of the council of experts). Retrieved from <http://www.bernskacietusais.lv/lv/aktualitates/ekspertu-padomes-tiksanas-969/>

In Latvia the possibilities to question the suffering child (or witness) by using technical means (record) is used as much as possible, when a discussion between the psychologist and the suffering child (witness) is performed in one room, but the persons directing the proceeding are located in another room. Careful work is currently being carried out in Latvia in order to introduce the approach Children House, where such an approach could be implemented for all children, who are victims and witnesses, in Latvia. In total it is planned to introduce 4 children houses in regions of the country⁹⁶. This initiative is implemented by the non-governmental organisation "Dardedze"⁹⁷, which has a long-term experience on the issues of protection of the rights of children, including for word with children, who are victims and witnesses of criminal offences.

⁹⁶ Children house in regions. Retrieved from <http://www.centrsdardedze.lv/lv/projekti-1/aktualie-projekti-1/badev---berna-maja-regionos> <http://www.centrsdardedze.lv/lv/projekti-1/aktualie-projekti-1/badev---berna-maja-regionos>

⁹⁷ Centre Dardedze. Retrieved from <http://www.centrsdardedze.lv/en> <http://www.centrsdardedze.lv/en>

ARTICLE 25 - TRAINING OF PRACTITIONERS

Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to enable them to deal with victims in an impartial, respectful and professional manner.

Member States shall request that those responsible for the training of lawyers, judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase awareness of the needs of victims.

Member States shall encourage initiatives enabling those providing victim support and restorative justice to receive adequate training and observe quality standards to ensure such services are provided in an impartial, respectful, and non-discriminatory manner.

Training shall aim to enable the practitioners to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.

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Victims of crimes require different kind of support services, provided by specialists of different professions. Specialist professionals acquire skills and know-how and improve their qualification during the whole period of their professional activities, in accordance with the needs of target groups.

One of the most significant groups of specialists is law enforcement authorities' (police officers, lawyers, prosecutors and judges), who meet the victims the most often during the criminal proceedings. In order to further quality law enforcement officers, the "Plan on strengthening the human resources capacity and development of the judicial power and law enforcement authorities for 2015–2020"⁹⁸ was developed in Latvia in 2014, and adopted by the Latvian government in 2015. The plan includes systemic approach for further education of law enforcement authorities'

⁹⁸ Plan on strengthening the human resources capacity and development of the judicial power and law enforcement authorities for 2015 –2020. Retrieved from <https://likumi.lv/doc.php?id=272711>

officers with regards to all professional competencies. The training is provided not only for police officers, public prosecutors and judges, but also for specialists of the criminal sentences execution institutions (State Probation Services and Prison Administration). Besides, in the context of this plan trainings are provided also for sworn bailiffs, advocates and notaries, as well as forensic experts and representatives of other professions, who perform their daily duties in the area of application of criminal law. Within this training program, significant importance is given to training on how to approach victims and how to communicate with them taking into account their needs. The training also promotes the application of mediation in criminal proceedings, facilitating the compensation of harm inflicted by a criminal offence, and development of restorative justice methods. The training process is provided mostly through interactive adult education methods, attention is dedicated to practical skills.

Such trainings in Latvia are funded from the European Social Fund and means of the State budget and they are provided by several education institutions at the same time, for example, the State Police College, the Latvian School of Public Administration, Judges Training Centre, among others. Standards for each law enforcement profession are determined in special regulatory enactments, for example, for judges in the Law on Judicial Power⁹⁹, and in the Law on the Prosecutor's Office¹⁰⁰. These standards foresee that every (and each) specialist of law enforcement bodies has an obligation to improve his or her education and fulfilment of this obligation is assessed on average once a year (depending on the profession).

It is clear that standards that are determined for specialists of law enforcement bodies differ in content and quantity from the ones that are proposed for psychologists, social workers, medicinal practitioners and representatives of other service professions, who provide different kind of support services to victims of crimes. Thus, for example, specialists of the Victims support phone 116006 have the profession of psychologist and all requirements and professional standard for them are, prescribed by the Law of Psychologists refer to them¹⁰¹. In order for a psychologist to be able to provide these services, he/she must be approved by a certification procedure and receive a certificate of a psychologist.

However, specialists, who work with child victims, specialize in children psychology. Considering the fact that children are victims with special protection needs, all professionals who work with this specific target group must be approved by a special training course (determined by management)¹⁰², in which in-depth training on the children's rights and human rights, communication with children, who have suffered traumatic experiences, and other knowledge

99 On Judicial Power. Adopted 15.12.1992. Retrieved from <https://likumi.lv/ta/en/en/id/62847-on-judicial-power>

100 Office of the Prosecutor Law. Adopted 19.05.1994. retrieved from <https://likumi.lv/ta/en/en/id/57276-office-of-the-prosecutor-law>

101 Law on Psychologists. Adopted 30.03.2017. Retrieved from <https://likumi.lv/doc.php?id=290115>

102 Regulation on the Procedure According to Which Special Knowledge in the Area of Rights of Children are Acquired, Content and Scope of such Knowledge. Adopted 01.04.2014. Retrieved from <https://likumi.lv/doc.php?id=265516>

and skills is provided. If such a special course is not completed, professionals will not be permitted to work on a criminal proceeding in which child victim is involved.

Between 2011 and 2013 the Latvian non-governmental organization PROVIDUS¹⁰³ in cooperation with partners in other EU countries implemented a project¹⁰⁴ in order to promote optimum introduction of the Directive of victims of crimes both in Latvia as well as other European countries. The purpose of the project was to prevent victimization by enhancing support for victims of crime and fostering a more holistic and healing response to crime, where the needs of the victim, offender and society are equally acknowledged¹⁰⁵.

There was also a second project. Improving Protection of Victim's Rights: Access to Legal Aid¹⁰⁶ This was implemented in Latvia between 2013 and 2014. The purpose of the project was to increase the information available for the victims on the legal aid as a means to facilitate the protection of their rights (a); to identify common standards to handle victim of crime cases in order to receive a just compensation (b); to reinforce the capacities of practitioners in dealing with victims, through the implementation of a training course (c); to facilitate the information of those categories of citizens less aware of their rights, notably the population of rural areas, through the production and delivery of a set of communication tools. A summary of best practice¹⁰⁷ was prepared as a result of the project in 5 European countries (Latvia, Poland, Spain, Bulgaria and Italy), which is currently being used in the practice in Latvia by applying the effective legal norms and introducing new innovative methods to work with victims.

103 Non-governmental organization PROVIDUS. Retrieved from <http://providus.lv/en>

104 Project "Support for Victims of Crime: Substantial or Nominal. Latvia and Beyond". Retrieved from <http://providus.lv/en/article/support-for-victims-of-crime-substantial-or-nominal-latvia-and-beyond>

105 As a result of activities of the project there was a package of materials developed regarding the rights and needs of victims, as well as recommendations for improvement of public security, including – informative charts and publications, publications and broadcast programmes on media, discussions and conferences (for specialists of the law enforcement area and broader public), 2 pilot projects were implemented, where the support was provided for real victims of crimes (support circles) and non-violent communication and conflict settlement methodologies were introduced in other the non-governmental organizations (unions Dardedze and Skalbes), and the international study regarding the best methods for support of victims of 10 European countries would be performed and recommendations would be developed. More than 2 thousand different specialists, including police, prosecutors, probation officers, prisons employees and policy makers from the Ministry of Justice, the Ministry of the Interior and the Ministry of Welfare were involved in educational measures during the project.

106 Improving Protection of Victim's Rights: Access to Legal Aid. Retrieved from <http://providus.lv/en/article/improving-protection-of-victim-s-rights-access-to-legal-aid> <http://providus.lv/en/article/improving-protection-of-victim-s-rights-access-to-legal-aid>

107 Improving Protection of Victim's Rights: Access to Legal Aid. Research paper on the present legal framework and best practices (2014). Retrieved from <http://victimsrights.eu/wp-content/uploads/2013/06/Report.pdf>

ARTICLE 26 - COOPERATION AND COORDINATION OF SERVICES

Member States shall take appropriate action to facilitate cooperation between Member States to improve victims' access to the rights set in the Directive and such cooperation shall at least aim at: a) exchange of best practices; b) consultation in individual cases; c) assistance to European networks working on matters directly relevant to victims' rights.

Member States shall take appropriate action aimed at raising awareness of the rights set out in the directive, reducing the risk of victimisation, and minimizing the negative impact of crime and the risk of secondary and repeat victimisation, of intimidation and retaliation, in particular targeting groups at risk such as children, victims of gender-based violence and violence in close relationships.

Cross-border cooperation for support of victims of criminal offences is under the competence of three law enforcement authorities of Latvia – the Ministry of the Interior (during the investigation phase), the Ministry of Justice (during the trial of phase) and Office of the Prosecutor General (during the pre-trial phase). Cooperation within the framework of certain criminal cases and support of victims is being provided by implementing international cross-border in the criminal proceeding. In order to establish the international cross-border cooperation, different kind of measures are implemented in Latvia, including for professional growth of specialists, application of legal norms (on the basis of which the Directive of victims is adopted) in practice and other.

Thus, for example, in April 2018 the special workshop “Effective cross-border cooperation in the criminal proceeding”¹⁰⁸ was held, where investigators of law enforcement authorities participated, in order to improve the performance of daily duties which require training on – use of resources and resources of other services in order to effectively perform cross-border cooperation. Cross-border cooperation is constantly changing; new cooperation tools are introduced. The audience of this workshop acquired both, the theoretical and practical expertise.

¹⁰⁸ Workshop “Effective cross-border cooperation in the criminal proceedings”. Retrieved from https://www.ta.gov.lv/LV/aktualitates_17/informacija_54/norisinajies_seminars_par_efektiva_parrobezu_sadarbiba_kriminalprocesa_.html_C1822 https://www.ta.gov.lv/LV/aktualitates_17/informacija_54/norisinajies_seminars_par_efektiva_parrobezu_sadarbiba_kriminalprocesa_.html_C1822

A number of measures were implemented during the process of transposition and implementation of the Victims Directive, in order to promote cooperation between Member States and implement high quality cross-border cooperation for supporting victims of crimes. These include:

- a) the State Police has implemented the project “Simplification of less serious crime investigation aimed to balance public danger, harm caused by crime and consumption of resources for investigation” (2013-2015)¹⁰⁹, within the framework of which information was collected on the practice of Latvia, Estonia, Lithuania, Germany, Finland, Sweden and Romania to improve investigation within criminal proceedings, and to learn how to work more effectively with victims of crime.
- b) The State Police, with a financial support from the programme “Criminal Law” of the European Commission Directorate for General Law, has prepared informative booklets “Did you turn to the State Police? What happens next? Short guideline on your rights”. Booklets are available in police stations as well as on the internet¹¹⁰ (2015)
- c) Non-governmental organizations have implemented a number of projects, including the project of the Public Policy Centre PROVIDUS: Support system for victims of crimes – in Latvia and elsewhere¹¹¹ (2011 – 2013), as well as the project: “Improving the protection of the rights of victims: access to legal aid”¹¹² (2013 – 2014) among others. The purpose of these projects was to introduce the Victims Directive and raise awareness on the establishment of support systems for victims of crime, as well as to promote cooperation between different Member States for protection of victim rights¹¹³.

¹⁰⁹ Simplification of less serious crime investigation aimed to balance public danger, harm caused by crime and consumption of resources for investigation. Retrieved from https://ec.europa.eu/home-affairs/financing/fundings/projects/HOME_2012_ISEC_FP_C2_4000003986_en https://ec.europa.eu/home-affairs/financing/fundings/projects/HOME_2012_ISEC_FP_C2_4000003986_en

¹¹⁰ Did you turn to the State Police? What happens next? Retrieved from <http://www.cietusajiem.lv/wp-content/uploads/2014/07/Policijas-brosural.pdf> <http://www.cietusajiem.lv/wp-content/uploads/2014/07/Policijas-brosural.pdf>

¹¹¹ Support system for victims of crimes - in Latvia and elsewhere. Retrieved from <http://providus.lv/article/atbalsta-sistema-noziegumos-cietusajiem-latvija-un-citur>

¹¹² Improving the protection of the rights of victims: access to legal aid. Retrieved from <http://providus.lv/article/uzlabojot-cietusotiesibu-aizsardzibu-pieejamiba-juridiskai-palidzibai>

¹¹³ All materials, including studies, booklets, informative editions, video stories, containing information about protection of the rights of victims have so far been available free of charge on different internet sites, such as: <http://www.vp.gov.lv/?id=506&-said=506&r=1> and <http://www.cietusajiem.lv/en/>, but information that may be useful for support of victims children is available on the website of the non-governmental organization Dardedze <http://www.centrsdardedze.lv/en>. The content of these websites is regularly supplemented with new information. Examples of good practice are provided in the section of good practice of the study.

GOOD PRACTICES

During the development of this national report, researchers were able to identify good practices regarding the transposition and practical implementation of the Victims' Directive. In short all of these good practices may be theoretically divided into three parts:

1) Studies on the good practice in Latvia and Europe, support models for victims and improvement models of support system for victims.

Different kinds of studies that are to be related to the development of support systems of victims in Latvia have been conducted since 2007. The first project "*Restorative Justice vs. Juvenile Delinquency: the Baltic States in the European Dimension*"¹¹⁴ and studies performed therein covered narrower target group – minors. But the conclusion was made in this study that there is a close relation between victim children and those, who later on commit criminal offences, from the perspective of criminology. It was concluded that children is the target group, the contact of which with crime in any form, cause unwanted injurious experience that may later on reflect in the anti-social behaviour of the child towards other or him or herself. The second project "Support for Victims of Crime: Substantial or nominal. Latvia and Beyond"¹¹⁵ was directly dedicated to the study of different target groups of victims, creation of understanding on the need of support of victims between specialists of law enforcement authorities and public information about the rights of victims. As a result of the project the first victimization survey¹¹⁶ was conducted in Latvia in 2012 and a summary of good practice of 8 European countries for protection of the rights of victims was performed. Two studies were conducted during the project "Outstanding problems of restorative justice, perspective solutions within the European Union"¹¹⁷, namely: "Development of compensation mechanisms in Latvia"¹¹⁸ regarding compensation mechanisms for harm of victims of crimes and preventive measures for elimination of victimization "Regulation of social safety operational measures in European Union"¹¹⁹. The fourth study "Improving Protection of Victim's Rights: Access to

114 Restorative Justice vs. Juvenile Delinquency: the Baltic States in the European Dimension (2007-2010). Retrieved from <http://providus.lv/en/article/restorative-justice-vs-juvenile-delinquency-the-baltic-states-in-the-european-dimension>

115 Support for Victims of Crime: Substantial or Nominal. Latvia and Beyond (2011 – 2013). Retrieved from <http://providus.lv/en/article/support-for-victims-of-crime-substantial-or-nominal-latvia-and-beyond>

116 Victimization survey of the inhabitants of Latvia, 2012. Retrieved from http://providus.lv/upload_file/Projekti/Kriminalitesibas/Victim%20support/Viktimizacijas_petijums_Fieldex_2012_Final.pdf

117 Outstanding problems of restorative justice, perspective solutions within the European Union (2012). Retrieved from <http://providus.lv/en/article/outstanding-problems-of-restorative-justice-perspective-solutions-within-the-euroepan-union-research-on-the-regulation-on-the-security-measures-for-safety-of-society-within-european-union-tm-2012-13-ek> <http://providus.lv/en/article/outstanding-problems-of-restorative-justice-perspective-solutions-within-the-euroepan-union-research-on-the-regulation-on-the-security-measures-for-safety-of-society-within-european-union-tm-2012-13-ek>

118 Development of compensation mechanisms in Latvia. Retrieved from <http://providus.lv/article/development-of-compensation-mechanisms-in-latvia> <http://providus.lv/article/development-of-compensation-mechanisms-in-latvia>

119 Reglmentation of social safety operational measures in European Union. Retrieved from <http://providus.lv/article/reglmentation-of-social-safety-operational-measures-in-european-union>

Legal Aid"¹²⁰ was dedicated to the study and improvement of the legal aid system.

2) Course of improvement of legal acts during the process of adoption of the Directive.

21 legal acts were supplemented in Latvia, when adopting the Directive of victims. The most significant amendments were made to Criminal Procedure Law¹²¹, Criminal Law¹²², State Ensured Legal Aid Law¹²³ and the Law on State Compensation to Victims¹²⁴. Such amendments resulted in good practices from professionals, such as the development of rehabilitation of children, who have suffered from violence, provision of support for families, where violence has been established, as well as provision of support to victims. It should be mentioned that amendments made in 2018 result not only in elimination of physical, but also emotional violence and prevention of victimization. Besides, also amendments to legal acts, made upon introduction of the Directive of victims and providing several new mechanisms for protection of the rights of victims, peculiarities of interrogation of victims as well as categories of specially protected victims are to be considered as significant. Detailed assessment of amendments to legal acts is provided in the section "Basic overview of the legal framework" of this study.

3) Practice of application of legal norms and public initiatives.

One of the most significant initiatives, which may be adopted also by other countries in case of need, is the **support phone line** for victims of crimes, operating since August 2015 and providing support for victims via the phone line 116006. It is important that this phone operates in the same platform with the **website** [ww.cietusajiem.lv](http://www.cietusajiem.lv), provided by the non-governmental organization Skalbes¹²⁵. The second initiative of the non-governmental sector, implemented by the Centre Dardedze¹²⁶, is provided for children, who are victims of different kinds of violence. The most significant direction of operation of the centre Dardedze for support of **child victims** is the establishment of the Children House¹²⁷. This establishment allows child victims to provide testimonies in a safe environment, reducing the risk of secondary victimization.

120 Improving Protection of Victim's Rights: Access to Legal Aid (2013 – 2014). Retrieved from <http://providus.lv/en/article/improving-protection-of-victim-s-rights-access-to-legal-aid>

121 Criminal Procedure Law. Adopted 21.04.2005. Retrieved from <https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law>

122 The Criminal Law. Adopted 17.06.1998. Retrieved from <https://likumi.lv/ta/en/en/id/88966-the-criminal-law> <https://likumi.lv/ta/en/en/id/88966-the-criminal-law>

123 State Ensured Legal Aid Law. Adopted 15.02.2005. Retrieved from <https://likumi.lv/ta/en/en/id/104831-state-ensured-legal-aid-law>

124 On State Compensation to Victims. Adopted 18.05.2006. Retrieved from <https://likumi.lv/ta/en/en/id/136683-on-state-compensation-to-victims>

125 Crisis and Cselling Centre "Skalbes". Retrieved from <http://www.skalbes.lv/en/>

126 Centre Dardedze. Retrieved from <http://www.centrsdardedze.lv/en> <http://www.centrsdardedze.lv/en>

127 "Children's House" - new approach for interviewing sexual abuse victims. Retrieved from <http://www.centrsdardedze.lv/en/news-1/childrens-house---new-approach-for-interviewing-sexual-abuse-victims> <http://www.centrsdardedze.lv/en/news-1/childrens-house---new-approach-for-interviewing-sexual-abuse-victims>

GAPS, CHALLENGES, AND RECOMMENDATIONS

This chapter analyses three key gaps, and challenges in the system of support to victims of crimes in Latvia and respective recommendations.

The amendments made to legal acts during the time period of implementation of the Victims Directive and during the time period of the introduced practice from 2012, has without doubt, promoted protection of rights of victims both in the criminal proceeding as well as outside of it. Regardless of that, three significant gaps are to be identified in the system of protection of victim rights in Latvia, namely:

- a) The **support system** of victims in general is still considered as complex and purposefully established system. It is fragmented in terms of both, the legal framework as well as support measures available to victims. As it was indicated in a study conducted in 2013¹²⁸ there is a number of significant parts developing the system in Latvia, but the support system of victims itself as a set of measures purposefully oriented is not existing. Due to this, it is currently complicated for a victim, who, for example, lives in distant rural regions, to receive different kinds of support.
- b) Free **legal aid** is still not available to all victims, although the range of receivers of free legal aid has significantly expanded after amendments to Criminal Procedure Law during the process of implementation of the Directive. Generally, services of an advocate must be covered by the victim by his/her own means. Every victim should have the right to state funded legal aid, starting from the moment, when a person is recognized as a victim.
- c) The number of cases, in which a bailiff has to fulfil **civil law requirements**, is increasing every year, but the proportion of completed cases during a year is small – the number of cases, where the execution is terminated without recovery is comparatively significant. In such a case it should be taken into account that approximately 30-40% of cases are recovered by bailiffs as civil claims during the criminal proceeding. One of the problems is the issue of rates of bailiffs, because there are number of activities that the bailiff has to fund from means obtained in other cases, but in case of lack of such means, there are risks existing for effective course of the recovery process in favour of the victim, namely: a recovery in favour of the victim is not performed and losses are not compensated

128 Kronberga, I. Dzenovska, I. Litvins, G. Sile, S (2013). Mehānismi cietušo kompensācijai kriminālprocesā Eiropas Savienībā (Mechanisms of victim compensation in criminal proceedings in European Union). PROVIDUS. Retrieved from http://providus.lv/upload_file/Projekti/Kriminalitesibas/Kopsavilk.Meh.ciet.kompens.pdf

to the victim. Victims do not receive compensation for losses very often, because the offender does not have any financial or other resources, from which it could be possible to compensate to the victim.

Considering the above mentioned three gaps, researchers have established the following recommendations:

- 1) to harmonise the support system of victims, and transform it into a uniform system, there should be a single basket of support services for victims, including as minimum the state funded psychologist's support or other support form according to the needs of the victim; guidelines on how law enforcement authorities should communicate with a victim and state funded legal aid from the moment, when a person has been recognized as a victim.
- 2) to establish a one stop agency for victims of crimes or a support service for victims, where the services listed above would be available.
- 3) in order to promote protection of victims of crimes, the possibility should be considered to establish a **Fund for Support of Victims**, probably similar to the one existing already in Latvia - the Maintenance Administration Fund. The existence of such a fund would enable the victim to receive a compensation for losses in cases, where the financial status of the offender does not allow for him/her to compensate the victim for the losses inflicted. At the same time the existence of such a fund could solve the issue on the insufficient amount of state compensations to victims of crimes.

CONCLUSION

Successful steps regarding the transposition of the Victims Directive definitely include the amendments made to Criminal Procedure Law and the Criminal Law. The work performed for prevention of victimization and secondary victimization is assessed positively with regards to victims of criminal offences that are related to physical and emotional violence, including prevention of violence against children and domestic violence. The change of focus of law enforcement authorities from the offender to the victim is definitely to be assessed positively.

However, it should be mentioned that the support provided to victims with special protection needs (including child victims) should be further developed, paying serious attention to the fact that questioning of victims should always be performed in appropriate premises in the police stations and infrastructure of the prosecutor's office; at the same time the idea of the Children Home should be further developed, in order to protect child victims from secondary victimization during the questioning. Although such tool as the website www.cietusajiem.lv is implemented in Latvia and the support phone for victims is operating, the system should not only be regularly assessed, but also improved, because currently there are no grounds to consider that the support system of victims is perfect.

Certain steps are necessary in order to overcome such gaps in the future, thus improving the condition of victims of a criminal offence.

First, in order to improve the condition of victims of criminal offences, the support system of victims should be a one stop agency, where a victim could receive all necessary information in only one place. That would eliminate the need to visit different institutions and authorities.

Second, it is important to establish a fund for support of victims, in order to ensure that victims of crimes receive compensation for losses and harm caused by the accused and a compensation of sufficient amount from the state in cases, determined in the Law on State Compensation to Victims¹²⁹ is based on the future perspective.

The key arguments of the present report are based on the conclusion that implementation of the Victims Directive is not only an obligation of each Member State, but also a big opportunity. There are no reasons to believe that all targets will be achieved with the formal implementation of the Directive. However, after implementation of the Directive into national legal acts, this provides opportunities for professionals to better support victims.

¹²⁹ On State Compensation to Victims. Adopted 18.05.2006. Retrieved from <https://likumi.lv/ta/en/en/id/136683-on-state-compensation-to-victims>

Hence, researchers believe that the best practice to be adopted in Latvia in the future is the Support Service of Victims, providing support, regardless of the fact, that the person has already been recognized as a victim in the criminal proceeding on the basis of a special decision.

Such Service would:

1. Provide support not only to victims of crimes, but also witnesses, who have been traumatized from the criminal event;
2. Support victims also after the end of the criminal proceeding, including during the time, when the offender is in the place of imprisonment or a punishment is executed, which is not related to deprivation of liberty;
3. Develop research and analysis in order to improve victim support services, as well as perform regular surveys close to the Latvian population and analyse results;
4. Makes efforts in order for the justice system to be focused on the victim rather than the offender;
5. Ensure victims receive regular, high quality and updated information in an understandable form about the latest changes in legal acts, formal procedure and range of services;
6. Is a central authority, organising the cross-institutional cooperation for elimination of victimization and prevention of crime, as well as educating society¹³⁰.

¹³⁰ Kronberga, I. (2013). Mehānismi cietušo kompensācijai kriminālprocesā Eiropas Savienībā: Latvijas izaicinājumi. (Mechanisms of victim compensation in criminal proceedings in European Union: challenges of Latvia). Retrieved from <https://www.slideshare.net/providus/mehnismi-cietuo-kompenscijai-kriminlproces-eiropas-savienb>

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VOCIARE

Victims of Crime
Implementation Analysis
of Rights in Europe



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