

Victims of crime

Harmonization of the legal regulation in the EU

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- Harmonization and unification**
- 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**
- Secondary victimization**
- Victims of crime in the legal system of the Czech Republic**





Harmonization of the legal regulation in the EU

- ❑ *Harmonization and unification* in EU– needed and why? – Area of justice

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

- ❑ On the 24th June 2020 the European Commission presented for the first time an *EU strategy on victims' rights*.

- **All victims of crime can *fully exercise their rights*, regardless of where the offence has been committed in the EU.**





Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012

- ❑ The purpose of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 –
ensure that crime victims will receive information, support and protection and that they can be involved in criminal proceedings.
- ❑ Member States were obliged to ensure that **victims are recognized and treated with respect, individually, sensitively, professionally and without discrimination.**
- ❑ **Individual rights of the victims** - Directive became an *inspiration for the Acts on Victims of Crime in the EU Member States* - they were mainly driven by **efforts to implement this Directive.**

The Directive required Member States to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive.

Not all states succeeded in bringing the Act on Victims of Crime into line with the Directive by implementation deadline set for 16th of November **2015.**





Victim of a crime

- ❑ The Directive **defines** the victim of a crime

It is either a natural person who has suffered physical, mental or emotional harm or material loss that was directly caused by the criminal offense

or *a family member of a person - whose death was directly caused by the criminal offense and who has suffered harm as a result of the death of that person*





The directive establishes a right for **victims to receive information.**

- Victims have the right to be **understand and to be understood**
- to comprehensible **communications** and to **relevant information** from the respective state authority. Art. 3 - 7

Member States must ensure that **information is provided to victims in a simple and accessible form**

- The criminal justice authorities have to **provide extensive information** proactively ex officio
- The **term information** is important for the rights of the victims
- Information may be provided **orally and in writing,**
- **MS - an obligation on police officers, prosecutors and judges to inform victims of their rights.**
- The **individual needs and personal circumstances** of victims must be considered **when providing information in each particular case.**
- The information has to be provided **without unnecessary delay** - a victim is informed **as soon as the victim meets a competent official** and can reasonably absorb such information.





The Directive provides the rights of victims **making criminal complaints.**

- The directive requires the authorities to provide the victim with at least a **written acknowledgment that a formal complaint has been made.**
- Victims are entitled to make their complaint *in a language that they understand.* They have the right to **get linguistic assistance** from the authorities **free of charge.**
- **Victims also have the right to request a translation of a written acknowledgement if they do not understand the language of the document.**
- **The victim must be informed, *at its request,* of the time and place of the trial, the nature of the charges against the offender, the final judgment and other matters.**
- **The victim must be informed of any offender's escape or release from imprisonment or custody**
- **The directive does not introduce the right for victims to lodge an appeal against a decision on releasing the offender, or the right to be heard in the release procedure before the competent authorities.**





Interpretation and translation rights under the Directive

The *important right* brought by the directive is the **right to translation** of the essential information - establishing an important combination with the *right of access to the material of the case*.

The victim has the right to *interpretation and translation*, and these services are provided **free of charge** to the victim *at her/his request*.

The Directive defines the right of access to victim support services – Art. 8-9

- ❖ Victims have **free access to confidential support services**, before, during and for a reasonable period after the criminal proceedings.
- ❖ Victims, and their family members, have **access to confidential support services free of charge**.
- ❖ States should **create a free and confidential support** service in addition to general support services.
- ❖ Victim general and specialist support may be provided by **governmental or non-governmental organizations**, on a professional or voluntary basis.





The rights of participation in the criminal proceedings, the right to be heard – Art. 10 - 17

Member States shall ensure:

- ❖ Victims **can be heard and provide evidence,**
- ❖ **Lay down national regulations** to ensure that victims of crime can be *heard and provide evidence during criminal proceedings*
- ❖ The right to **review decisions to stop criminal proceedings**
- ❖ to develop procedure in the **criminal procedure codes** whereby a victim will be entitled to ask for a review of a decision not to prosecute





Protection rights for **victims** under the Directive - Art. 18 - 24

- ❖ Directive obliges the States to **take measures to protect victims from secondary victimization**
 - The directive tries to ensure that the victim is **not further victimized** as a result of the criminal process to **prevent secondary victimization of all victims**, not just vulnerable victims.
 - The victim must have measures **to protect himself and his family** from secondary victimization.

- ❖ **Protection from *repeated victimization applies to all victims*, but may be of particular importance in situations:**
*Gender-based violence and violence in close relationships, such as **physical violence, harassment, sexual aggression, stalking, intimidation, treated without respect by media***

- ❖ **Member States should encourage the media and other subjects to take *self-regulatory measures on ethical conduct towards victims*.**





Describing secondary victimization

- ❖ **Process or situation, *when or where victims may be exposed to unpleasant behaviors, actions and events while resolving their situation after a crime, which may create negative feelings and deepen their harm* is secondary victimization.**
- **Victimization can be divided into **primary and secondary**.**
- **By primary victimization **a direct injury by the perpetrator and manifests itself as an immediate consequence of the crime.****
- **The nature of the injury may be material and often physical injury is also present.**
- **Secondary victimization is can be a negative reaction of the society, which the victim is experiencing due to the primary victimization.**
- ❖ **We can speak about secondary victimization when the victim *suffers a further, unnecessary injury in addition to all of these procedures.***





Secondary victimization involves defaming the victim, not respecting the victim's privacy, damaging the victim's reputation, downplaying of the harm, and blaming the victim.

- Secondary victimization is defined in the MS EU - Acts *On Victims of Crimes*
- **Secondary victimization by the police** - the victims' experience with the police corps or its behavior is not always positive.
- *Possible inappropriate behavior of the police causes further psychological harm* to the victims of crime and it is one reason which causes the victims' unwillingness to cooperate with the police.
- *Secondary victimization by the victim's surroundings* and the most trusted people the victim knows.
- *Secondary victimization by the media* caused during informing the public about crime because of the risks of secondary injuries to victims and the possibilities of protection against crimes
- Secondary victimization *by courts, prosecutors, lawyers, police, judges, medical services*





Protection of the victim's dignity - adopting measures guiding the behavior of professionals in contact with victims

- Ensuring that **victims are treated** in a sensitive and professional manner in accordance with their needs.
- The right to **avoid contact between the victim and the perpetrator** at the premises of the criminal proceedings.

The victim's right to protection in criminal investigations - **the interrogations should be conducted without undue delay**

The *number of interrogations should be kept to a minimum* and the victim should be able to be accompanied by a prosecutor or other person which the victim chooses.





- ❖ The right to **legal aid** and national law must provide for the appropriate legal framework
 - Art. 13 - 17
- ❖ The **right to reimbursement of expenses** is also important, so the victims are *not prevented from actively participating* in criminal proceedings because of financial limitations
- ❖ The **right to return of property** and the clarification within what timeframe and in what condition the property should be returned is *specified in national criminal law legislation*.
- ❖ The return of property should **be free of charge** for the victim. All costs related to returning the property should be borne by the State.
- ❖ The right **to a decision on compensation** from the offender *in the course of criminal proceedings*
- ❖ Entitles a victim to **obtain a decision on compensation** by the offender within a reasonable time in the course of criminal proceedings, except where *national law provides for such a decision to be made in other legal proceedings*.





The Directive regulates the rights of victims **resident in another Member State.**
Art.17

- ❖ The victim can lodge a complaint **in her State of residence**, if the victim **was not able to do so** in the State where the crime was committed *or if the victim does not wish to do so in case of serious offences.*
- ❖ The Directive **emphasizes the individual assessment of victims in order to identify the possible need for their special protection** and thus Member States must ensure *that victims are assessed individually.*

Rights for vulnerable victims under the Directive - Art. 22 and 23

- ❑ Furthermore, the Directive explicitly deals with the **rights of child victims who are classified as victim in need of special protection.**
- ❑ If the age of the child **is uncertain** and there is a reason **to believe** that the victim is a child, the victim **is presumed to be a child.**





❖ **Training of practitioners**

Article 25

1. **Member States shall ensure that:**
2. **police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims**
3. **to increase their awareness of the needs of victims and to enable them to deal with victims in an impartial, respectful and professional manner.**

❖ **Cooperation and coordination of services**

Article 26

1. **Member States shall take appropriate action to:**
2. **facilitate cooperation between Member States to improve the access of victims to the rights set out in the Directive and under national law.**





Victims of crime in the legal system of the Czech Republic

The term **victim** was codified in the Act number 209/1997 Coll. with the title *On providing financial assistance to victims of crime*.

1. Right to information

The Act On crime victims, in the §7 to §13 act No. 45/2013 Coll.

- the information to the victims *has to contain general description about the rights and* the system and most probable development of the following criminal procedure.
- ❑ The information has to **describe the position of the victim and also to possible positions of the victim changing the status to the witness.**

The police and other bodies also other authorities and competent institutions, the medical facilities or the institution of security detention

are entitled **to inform the victim** about all important measures for ensuring the safety of the victim





2 Right to professional assistance

The right to professional assistance - **also the expert assistance**

- ❖ §§38 to 48 of Act No. 45/2013 Coll., *On Crime Victims*
 - This assistance includes psychological counseling, social counseling, legal aid and legal information including restorative programs.
- ❖ **The Law on advocacy is describing legal aid as representation in proceedings before courts and other authorities**

The *legal aid differs* from the aspects of the *psychological and social assistance and services*.

They may be provided to victims by entities authorized to provide social counseling and social prevention services.

Differing from the activity of the **Bar Association of the Czech Republic** is in the system another procedure introducing an *advocate* as a subject helping in the above-mentioned special system the victims of crime.

The use of this sort of help, provided by and legal representative is described *partially in the act No. 141/1961 Coll., The Criminal Procedure Code*.





3. Right to protection against imminent danger

The victims of crime are protected **also in the situations where an imminent danger is reflected.**

- The **imminent danger** is the situation, *where the safety of victims is endangered*. In those situations **the police of the Czech Republic have to act.**
- The **police are obliged to take measures to protect** the persons or already victims with the instruments of **short-term protection**, where the victim is protected by the active police officers.
- This described **right to protection** is codified in the *§14 of Act No. 45/2013 Coll., On Crime Victims.*

In the situations where the **special protection** of the victims of crime is needed is **also the assistance** of the court or public prosecutor necessary.





4. Right to protection of privacy and to protection against secondary harm

- ❖ **Rights to protection of privacy** and also to **protection against secondary harm** are one or both connected with the secondary victimization.

the legal regulation in the Czech legal system - Act On crime victims, as stated in the *§§15 and 16 of the Act on Crime Victims Act No. 45/2013 Coll.*,

- The right to protection of privacy and against secondary harm is connected to the **prohibition on disclosure of information** that would allow identification of the victim,
- **discovery of a personal data of the victim**, and which reduces the possibility of repeated or secondary victimization.
- ❖ the §§17 to 22 of Act No. 45/2013 Coll., On Crime Victims - the secondary victimization - the protection against secondary harm stipulated.

Following the above-described paragraphs, the victim *has the right to be prevented from a contact with a person identified by the victim as a perpetrator or suspect*, or the *prosecuted person*.





❖ §§17 to 22 of Act No. 45/2013 Coll., *On Crime Victims*

- The victims can **claim to write a statement**, that is describing the impact of the crime on the victim's life.
- The victim has the **right to request limitation** of the encounter with the *perpetrator at any stage of the criminal proceedings*,
- A particularly vulnerable victim must be **interviewed sensitively following** the *conditions* of the *circumstances* that make it a **particularly vulnerable victim**.

Interrogations should be conducted in such a way that they *do not have to be repeated* and should always be conducted by the same person before the same authority.





5. Right of the victims of crime to compensation by the state

The victims of crime can also use the *right to compensation by the state*.

The Czech legal system is governing this protection thanks to the sections 23 to 36 of Act No. 45/2013 Coll., *On Crime Victims*

- **This compensation could be asked by:**
 - the victim who has been injured or has suffered serious injury,
 - the survivor of the victim who died
 - the victim of the crime against human dignity in the sexual area
 - and the child who is the victim of the crime of abuse
- ❖ The financial assistance - *an provision of a financial amount used for to overcome the social situation* connected to the victims position and consists of covering the costs associated with the provision of other necessary services and regimes of assistance

